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DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION



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December 1, 1993

To: All CSED Manual Holders

From: Gwen Kloeber, Policy and Training Supervisor *gk*

Subject: Review and Modification: Forms, Instructions,
and SEARCHS

Correction to Transmittal Letter of October 13, 1993

Instructions and final forms for sections CS 408.1-408.5, Periodic Review and Modification, will **not** be produced or distributed as stated in the 10/13/93 transmittal letter accompanying the Manual pages. Instead, users may obtain final versions of the new forms, as needed, through the SEARCHS document generation function. (Forms are being tested now, and should be available in "live" production within a few weeks. CSED users will be notified.)

Please retain the draft forms in your Manual as examples of the final forms. Final, system-produced forms will differ from the corresponding hard-copy drafts only in nonsubstantive areas. Please also retain your current Manual copy of form CS-408.11, "Modification of Default Order" (12/91).

NOTE TO CASEWORKERS: Caseworkers will use only two of the above-mentioned forms in processing review and modification actions: the "Request for Review" (caseworker version, CS-408.3H) and the "Modification of Default Order." For guidance on completing these forms via document generation, consult the data element descriptions on the DFE screen. All other modifications forms will be generated by the Modification Unit only.

Instructions for Manual Maintenance--Interlineation Changes

Strike the stamped word "DRAFT" on form CS-408.3A, and write in the words, "See system version, CS-408.3A or CS-408.3H."

Strike the stamped words "DRAFT" on forms CS-408.3B through CS-408.3G, and write in the words, "See system version."





DEPARTMENT OF
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CHILD SUPPORT ENFORCEMENT DIVISION



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July 16, 1999

To: Regional Managers, Team Supervisors, Unit Managers, Investigators, Attorneys,
Central Office Administrative Staff, Kathy Fritz, Jon Meredith, Hearing Officers,
Diane Degenhart, Anita Bangert (TRW), CSU, Karlene Grossberg, Gina Mallett,
Kim Brown, Terressa McDaniel

From: Mary Ann Wellbank, Administrator
Dennis Shoer, Bureau Chief

Handwritten signatures of Mary Ann Wellbank and Dennis Shoer.

Subject:

MANAGEMENT MEMO 99-03

1. NON-COOPERATION-(IV-A/IV-D) JOINT COORDINATION
2. SUMMARY DISSOLUTION OF MARRIAGE
3. CONFIDENTIALITY/SPECIFIED AND GENERAL PURPOSES
4. HEARINGS/NOTIFICATION/CERTIFICATION OF ADMIN ORDERS
5. CENTRAL CASE REGISTRY/N4D ACCOUNTS
6. LEGISLATIVE UPDATE/BILL STATUS
7. VOLUNTARY WAGE ASSIGNMENTS
8. EQUITABLE ESTOPPEL DEFENSE
9. LUMP SUMS
10. GUIDELINES/FOSTER CARE/NOCS
11. THOUGHTS FOR THE DAY
12. CODING NO JURISDICTION CASES:NATIVE AMERICANS



1. NON-COOPERATION-(IV-A/IV-D) JOINT COORDINATION

A Sanction Work Group, including staff from CSED and the Public Assistance Bureau (PAB) met to discuss improved communication, between the CSED and PAB.

Specifically, the work group addressed the issue of non-cooperation recommendations and implementation of sanctions.

Pursuant to policy, PAB must complete a non-cooperation evaluation for "good cause," or valid reason, **before imposing** sanctions recommended by the CSED. The work group's task was to develop a policy and procedures, for both agencies, concerning the role of the Child Support Investigator when the FAIM Coordinator evaluates good cause before imposing sanctions for non-cooperation. The result was the following new policy.

PROCEDURE

ACTION

NOTE: Terminology differences: FAIM "Good Cause" refers to the initial referral process (FA-332) which allows the TANF recipient to not complete the referral, or follow requirements to cooperate with the CSED, due to physical or emotional harm to the child or caretaker relative; i.e. the child was conceived because of incest or forcible rape; legal proceedings for adoption are pending, etc. CSED "Good Cause" as referenced in this section, is the reason(s) the individual may claim for failing to cooperate with the CSED after the initial child support and or non-cooperation referral is made.

CSED Investigator 1. Cites the FAIM participant for non-cooperation on the SEARCHS TM3 screen.

This information interfaces overnight to TEAMS and appears on the "ETAL" screen.

a. Singular case non-cooperation recommendations against an Obligee:

The information entered on the TM3 screen must be entered on a single line. Reason: Only the first line of text entered interfaces to TEAMS.

(1) The information must include:

- I. the specific CSED case number,
- ii. the specific Obligor's name,
- iii. the Investigator's CS #, and
- iv. a very brief explanation of the reason for the non-coop

An automatic, fourteen-day tickler, "CHECK ON CP'S NON-COOP STATUS " appears on TKI. The tickler will also automatically be on TKW. An automatic case note

appears, "CP CITED FOR NONCOOPERATION," in CAN. The text from TM3 is included in the body of the case note.

- b. Edits the automatic case note on the CAN screen to include complete information to support the non-cooperation recommendation. Reason: PAB caseworkers have access to SEARCHS case notes. Complete information supporting the non-cooperation recommendation must be provided in case notes to assist the PAB to determine good cause concerning the sanction.

NOTE: If the participant claims good cause, to PAB, after receiving the TEAMS Notice, and more information is needed, the PAB caseworker is instructed to contact the Investigator identified as having initiated the non-cooperation recommendation. Upon request, the appropriate Child Support Liaison will also assist with complex cases.

The PAB caseworker will contact the appropriate CSED caseworker, by electronic mail, to inform the CSED **only if the sanction was not imposed.** The communication will provide a brief explanation for not imposing the sanction.

- 2. Secondary non-cooperation recommendations against a Custodial Party/Obligee on other cases:
 - a. Cites the second, third, etc. sanction on other cases for the same Obligee. The caseworker sends an electronic mail message to the FAIM Coordinator. Reason: Additional non-cooperation recommendations, for other cases, cannot be entered on SEARCHS when a non-cooperation recommendation already exists. Therefore, there is no interface with TEAMS. The FAIM Coordinator will note the additional non-cooperation recommendations in TEAMS case notes (CANO). This will assure full compliance with all SEARCHS cases is in effect before benefits are authorized following the end of the penalty period, or if the case closed, at reapplication.
 - (1) Adds second line of text on TM3, following the guidelines for initial recommendation. This line of text will not interface with TEAMS, nor will it be entered on an automatic event or tickler on SEARCHS.

- (2) On SEARCHS, enters manual case note with explanatory text, and a manual fourteen-day tickler to follow up on non-cooperation recommendations. Again, this should follow the format for the initial non-coop recommendation.

NOTE: These steps must be done to alert other CSED caseworkers that additional non-compliance issues exist, and to ensure that the secondary non-cooperation recommendations are not inadvertently dismissed by another CSED caseworker before all compliance issues are resolved for the Obligee.

3. When compliance occurs, enters on the TM3 screen the date of cooperation and release the non-cooperation recommendation from SEARCHS. Reason: The interface to TEAMS will set an ALERT with the date of compliance for the FAIM Coordinator.

NOTE: The PAB caseworker will enter appropriate information in TEAMS Case Notes (CANO) when considering eligibility after the sanction penalty period has elapsed. This information does not indicate whether the sanction is overturned/lifted before the end of the sanction period.

General Information:

1. Once imposed, a FAIM sanction **will not** be overturned/lifted even if the participant complies during the penalty period, or possibly even before the sanction penalty period begins. The FAIM Coordinator will enter the compliance information in case notes and evaluate eligibility at the end of the penalty period before reinstating benefits.

EXCEPTION: A sanction may be overturned by a Fair Hearing decision in favor of the participant or if good cause is determined by the PAB County Sanction Review Committee.

2. Due to FAIM timely notice requirements (ten days before the adverse action), the TEAMS case may not immediately reflect the participant's sanction status. If the sanction is not imposed, the CSED Investigator **will be** notified by the FAIM Coordinator, usually within ten days of the cited CSED non-cooperation.
3. If the TEAMS custodial parent (CP) is cited for non-cooperation by more than one CSED Investigator, only the initial non-coop will interface.
4. An alpha/numeric list of the CSED Investigators' CS numbers will be available in each

Office of Public Assistance (OPA). This list will be updated periodically. If other information is needed, the appropriate CSED Liaison will be contacted.

5. The FAIM Coordinator may check to make sure there is only one non-cooperation cited by checking SEARCHS PAC screen and checking other cases for the CP.
6. The TEAMS Notice (A740) to the recipient should include a brief statement identifying the particular CSED issue(s). TEAMS Notice (A740) requests that the participant does not contact the CSED. The Notice will direct the participant to submit the requested document(s) and/or verification(s) to the OPA. OPA will forward them to the CSED office or arrange a meeting with the Liaison to resolve any conflicts.
7. A participant cannot receive benefits even after the penalty period is over, unless he/she is in compliance with all eligibility requirements. If the FAIM Coordinator has not been notified of CSED compliance, he/she can contact the Investigator for the current status. If, for any reason, the case closed during the penalty period, the FAIM Coordinator will require a new FA-332 and resolve the existing non-cooperation issues before benefits can be authorized. The Coordinator should contact the previous Investigator (or appropriate Liaison) for information.

NOTE: For additional information regarding Non-cooperation/IV-D Good Cause, please reference Management Memo 97-04, Item #9, dated January 5, 1998.

2. SUMMARY DISSOLUTION OF MARRIAGE

Effective July 1, 1999, parties can obtain a dissolution of marriage involving children of the relationship by using the Summary Dissolution of Marriage process found at MCA 40-4-130 et seq. When the married couple has children born or adopted of the relationship, in order to use this streamlined divorce process, the couple must:

- 1) be joint petitioners;
- 2) have limited assets and debts as explained in MCA 40-4-130;
- 3) not be pregnant;
- 4) have an agreed upon parenting plan that they will present to the court;
- 5) have an agreed upon property distribution; and
- 6) **ALREADY HAVE A SUPPORT ORDER ISSUED BY AN ADMINISTRATIVE AGENCY OR COURT.**

It's anticipated that many of the individuals using this process will have CSED support orders. The Summary Dissolution forms, available in packets for a copying fee from the Clerk of District Court, will have form language that will reference the prior support order. You may start seeing some of these divorces. The Summary Dissolution Decree

DOES NOT establish a new support order effective the date of the decree but simply mentions the prior order established either by the CSED, a district court in another action, or perhaps even from an administrative agency or court of another state.

Also, as a consequence of these new amendments to the Summary Dissolution law, the CSED anticipates that more people will apply for services simply to get that support order established so they are then eligible for a Summary Dissolution. It is expected that Montana Legal Services Association and attorneys will be referring individuals to the Summary Dissolution process and to CSED to get a support order established. All involved in discussing this bill were told that the CSED would treat these cases the same as any new application for services. If the individual applying wants to close the case after the order is established, they may certainly do that. This was not a CSED bill but the Division watched the bill during the session and have had input on the court forms.

Questions or problems concerning the Summary Dissolution of Marriage process and its impact on the CSED should be referred to Amy Pfeifer.

3. CONFIDENTIALITY/SPECIFIED AND GENERAL PURPOSES

The Policy and Procedure Committee was asked to review the policy concerning the release of information to parties speaking for Obligors or Obligees, and the strict usage of the CSED Authorization to Release Information form (CS-100.1A). The existing policy is dated November 20, 1995. It requires the use of the CSED form as an "all or nothing" release by which the releasing party cannot limit or specify the types of information to be released.

At the time the existing policy was established, CSU had just begun operations. During the transition of information release from regional offices to CSU, considerable confusion developed concerning the release of information to specified persons. The policy was set to give consistency to the release of information, and to simplify the process in an attempt to alleviate the possibility of information being improperly given.

However, since the issuance of the policy, CSU personnel have gained experience and discretionary knowledge and the Regions continue to improve communications with CSU. Given this, it has become apparent that the policy concerning this issue can become somewhat less restrictive. Therefore, the Policy and Procedure Committee has changed the policy as follows.

1. Release of information for a specified or limited purpose.

The regional case working staff can accept documents authorizing the release of information that are the *basic equivalent* of the CS-100.1A form.

The form must bear the signature of the releasing party, must specify the party to whom case information may be given, and the specific purpose of the release. Appropriate case notes must be entered, using the "additional text" event, to properly document the authorization and the specified limitations.

This would include a release form from a housing authority, a title or mortgage company, a CSED Hearing Request form indicating representation in a CSED administrative hearing (for a person other than an attorney), or any similar such form for a specific and limited purpose. If you have any questions or uncertainty about the acceptability of a specific purpose release, consult your supervisor or regional staff attorney.

2. The ongoing release of information for general purposes to a specified person.

The regional case working staff must receive the completed CS-100.1A form bearing the signature of the releasing party. The appropriate entries must be made on the CSU screen and the appropriate events created in case notes following the policy issued November 20, 1995 and found in the CSED Policy Manual at CS-100.1.

Remember, it is never inappropriate to obtain the CS-100.1A before releasing information. However, a CS-100.1A is not required when a reasonable equivalent release has been provided by the releasing party.

4. HEARINGS/NOTIFICATION/CERTIFICATION OF ADMIN ORDERS

NOTIFYING OBLIGEES OF HEARINGS

Under current OALJ procedures, only a party to an action, (i.e. the person(s) being served), receives a Notice and Order for Hearing. A copy is sent only to the regional investigator and not to a non-party, such as an obligee. If the investigator desires to have an obligee as a witness in such hearings, it is the investigator's responsibility to insure that the witness (Obligee) either gets a copy of the notice and order for hearing or otherwise is made aware of the date and time of the hearing.

However, MCA 40-5-226(6) dictates that in any enforcement or paternity hearing, the department shall send a copy of the notice of hearing to the obligee by regular mail addressed to the obligee's last known address; it also allows the obligee to attend and observe the hearing as a non-party.

Beginning immediately, the OALJ will include the obligee in the Certificate of Mailing on a Notice and Order for Hearing in any enforcement or paternity hearing and will send a copy of the hearing notice to the obligee by regular mail to the obligee's last known address. In addition, in the near future, the Notice and Order for Hearing will be modified to include language to the obligee letting the obligee know that he/she may attend and observe the hearing as a non-party and provide the OALJ with a number where he/she

may be reached for hearing.

CERTIFICATION OF ADMINISTRATIVE ORDERS

Effective immediately, caseworkers requesting a copy of an administrative order be certified by the OALJ must provide the copy of the order with this request. The only exception to this rule is when the regional case containing the order has been closed and archived. When this exception occurs, and the OALJ is notified of it, the OALJ will search its registry for a copy to certify. In the process of certifying an order, the holder of an original document certifies that a copy of that original document is a correct and true copy of the original because the copy was compared to the original and was found to be a true and correct copy.

Please remember that the ABSTRACT showing that an administrative order was abstracted to District Court is **not** the order. The abstract, although it outlines essential elements, refers the reader of the abstract to the underlying order on file with CSED for details of the order. Those details include other essential elements like reverter clauses and medical language. Remember, the OALJ will **not** certify abstracts.

Additionally, the OALJ has found instances in which the SOS/SOD screen isn't updated with the district court cause number from the filed abstract. It becomes a significant problem when the OALJ abstracts modification orders. If the SOS/SOD screen for the underlying order isn't correctly filled in, the OALJ doesn't know what county and cause number to use when filing the abstract for the modified order. PLEASE remember to update your SOS/SOD screen with the correct district court and cause number from the filed abstract once you receive it from the OALJ.

The system will not allow you to update SOS/SOD once a case is closed. So, if you are closing a case shortly after establishing a new support order, you may have to wait until the filed abstract is returned to you in order to load your district court and cause number before you close the case, or you will have to re-open the case, input the required information, and close it again. For future reference, even in closed cases, it is essential that the SOS/SOD screen is complete with district court and cause number information from the filed abstract.

Effective immediately, the investigator and/or the investigator's supervisor will be notified of any case in which the SOS/SOD screen is not properly completed with the correct district court and cause number. Upon such notification, please promptly update the SOS/SOD screen.

5. CENTRAL CASE REGISTRY/N4D ACCOUNTS

Please do not adjust, close, open, or use in any way N4D CCR and N4D CCR EXC accounts. *These accounts are strictly for the use of Region 90 cases.* If the case is

transferred to your region and the N4D CCR accounts are still open, please contact the State Central Case Registry. These accounts should be closed before the transfer occurs from Region 90 to your region. If they are not closed, DO NOT try to close them. The case will have to be transferred back to region 90, the accounts will be closed and the case will be transferred back to your region. The only accounts you should be using are AFDC or NAFDC accounts like you always have.

N4D CCR accounts do not create a declining balance or keep an account history. The N4D accounts are only for a payment record. If there are payments received on the case that was transferred to you, you need to load these payments into your account. You should never have an open N4D CCR and an open AFDC or NAFDC account. Do not request any adjustments or DPC credits on N4D accounts. N4D payments are presently dragging into DOH creating a negative balance. An ASAP problem report as been submitted to stop this. An edit has been requested to prevent regional workers from using the N4D accounts and to prevent N4D CCR cases from being transferred with open accounts. Until this is in place, please do not use the N4D accounts. When the problem reports are fixed and the edits are in place, notification to all staff will be disseminated. Thank you for your assistance.

To formalize this policy, please make the following interlineation changes to section CS 200.3 Central Case Registry, in your Policy Manual:

On page 8 of 18, revise 2 a (I) and (ii), **please cross out section (I) and (ii) and replace with the following to read as:**

(I) If the case is a CCR (Region 90) case, **requests the CCRU** (1) close any Region 90 accounts and (2) transfer the Region 90 case to the appropriate region. Once the case is transferred by the CCRU, ensures CAS is updated as necessary to show the case is now a IV-D case, and opens the appropriate new accounts. (The CSED must build new, IV-D accounts for former Region 90 cases because SEARCHS does not calculate or maintain the balance of support owed in Region 90 cases.)

(ii) If the case is not a CCR case (that is, it is based on an income withholding order only), **requests the CCRU** (1) close any Region 90 accounts, and (2) close the Region 90 case. Once the Region 90 case is closed by the CCRU, opens the appropriate new accounts for the IV-D case, and proceeds as in II-2b below, incorporating the income withholding information as appropriate.

6. LEGISLATIVE UPDATE/BILL STATUS

For a complete synopsis of CSED's 1999 legislative bills, including what changed and the effective date of enactment (Senate Bills 30 & 76, and House Bill 127) see Attachment #1. Please insure all employees are aware of legislative changes. The regional legal staff

should thoroughly brief all regional employees to explain each and every statutory change.

7. VOLUNTARY WAGE ASSIGNMENTS

Before the institution of income withholding, the CSED used voluntary wage assignments to help insure monthly payments of child support. The voluntary wage assignment allows an obligor to designate a portion of his monthly wages from employment be sent to the CSED to satisfy the obligor's child support obligation. The assignment is purely voluntary, and may be withdrawn by the obligor at any time. There is no method to enforce a voluntary wage assignment, nor formal means of requiring an obligor to initiate one. **So, where the CSED has jurisdiction to do income withholding, a voluntary wage assignment must not be used.**

However, there are situations where the CSED has *no jurisdiction* to do income withholding, but an obligor wants to insure that monthly child support payments are made. In those situations, an obligor may wish to sign a voluntary wage assignment and direct the payor to make regular payments to the CSED in order to satisfy a child support order. A sample voluntary wage assignment is attached. See Attachment #2.

The original, in the event of litigation, should be sent to the obligor's employer, and a copy sent to the obligor and one for CSED. The CSED has no role in this process, other than providing the form, and distributing the money once it is paid over. When the Obligor changes employers, he/she must make a new voluntary wage assignment. We **CANNOT** send out copies of previous voluntary wage assignments to new employers. Forget about old concepts regarding wage assignments. They do not apply where CSED does not have jurisdiction to take any enforcement action.

Payments received via a voluntary wage assignment should be applied to current support, and, if any amount is included for past-due support, an amount should be applied to arrearages. Please fill out the NOI screen as a VOL only when you have received the voluntary wage assignment. If the Obligor withdraws the wage assignment, do not delete the NOI. Select the NOI and go to DBD and select the account(s) that the NOI for the voluntary wage assignment was initiated for, then to DBM and modify the amounts down to \$0.00. Please note the voluntary wage assignment is not the same as "Voluntary Withholding Authorization" (see CS 510:4) as in the latter the Obligor can not withdraw the wage withholding once initiated.

The appropriate events can be found in the enforcement menu after income withholding and are as follows:

-VOL WAGE ASSIGNMENT SENT TO AP/ with text to indicate any specifics

-REC'D SIGNED VOL WAGE ASSIGNMENT/ with tickler to fill out NOI screen

-*SENT VOL WAGE ASSIGNMENT TO EMPLOYER*/ with text to indicate the employer and any other information

-*VOL WAGE ASSIGNMENT W/DRAWN BY AP*/ with tickler to notify employer

-*NOTIFIED EMPLOYER TO W/DRAW VOL ASSIGNMENT*

If you have questions regarding the voluntary wage assignment, please check with the Legal Bureau staff.

8. **Equitable Estoppel Defense**

Caseworkers, especially those involved in enforcement matters, will recognize the defense of equitable estoppel. In cases where the defense is usually raised, an obligor will assert that the obligor and the obligee had an agreement which relieved the obligor of his support obligation. If the obligor can prove that such an agreement existed, and that the obligee got something in exchange for the agreement, then the obligee is prevented from enforcing the ordered child support during the period covered by the agreement.

A recent Montana Supreme Court case, *Marriage of Shorten*, 1998 MT 267, added a new twist to the defense of equitable estoppel. In the *Shorten* case, the court decided that an obligee who hides the children from the obligor may be subject to an equitable estoppel defense. Under the *Shorten* type of equitable estoppel, the obligor must prove the following facts:

1. The obligee conceals a material fact,
2. Known to the obligee,
3. Unknown to the obligor,
4. The obligee engages in conduct with the intent the obligor will rely on it,
5. The obligor relies on the obligee's conduct,
6. Which changes the obligor's position for the worse.

The *Shorten* case met these requirements because the obligee hid the child from the obligor (concealing a material fact -- location of the children, which was known to the obligee and unknown to the obligor), did not attempt to collect child support while she was in hiding (obligee engages in conduct with the intent that the obligor will rely on it), and did not provide any information on where the obligor could send payments (obligor relied on obligee's conduct, to his detriment). The court considered whether the obligor tried to contact the child irrelevant. The court held that the obligee is "barred from collecting back child support for the time during which she secreted herself and the child from the child's father." There may be other situations which an obligee's actions give rise to the defense.

The *Shorten* case did not address whether the equitable estoppel defense would also apply to child support assigned to the state. Montana Code Annotated 53-2-613 (e) provides:

A support obligation assigned under this section may not be terminated, invalidated, waived, set aside, or considered uncollectible by the conduct, misconduct, or failure of a recipient or former recipient of public assistance to take any action or to cease any action required under a decree, judgment, support order, custody order, visitation order, restraining order, or other similar order.

This statute will clearly apply to actions the obligee takes after assigning child support. The outcome is not so clear for actions the obligee takes before assigning child support. The matter has not been considered by the Montana Supreme Court.

In the other states which have addressed this question, only Nevada has held that the defense applies to assigned debt. The other states (e.g., Arizona, California, Oregon) say equitable estoppel does not apply against the state and the state retains the ability to collect support, regardless of the obligee's actions. *County of San Diego v. Green*, 167 Ariz. 624, 810 P.2d 622 (Ariz. Ct. App. 1991), *State ex rel. State of Alaska, Child Support Enforcement Div. ex rel. Lacey v. Hargrove*, 89 Ore. App. 17, 747 P.2d 366 (Or. Ct. App. 1987), *In re Marriage of Comer*, 14 Cal.4th 504, 927 P.2d 265, 59 Cal. Rptr.2d 155 (1996). These states base their decisions on public policy reasons, saying it should be up to the parents, rather than the state, to support children.

How to recognize an equitable estoppel defense.

If an attorney raises the defense, you can expect to see or hear the words "equitable estoppel," "estopped," "unclean hands," or "detrimental reliance." A non-attorney is unlikely to use those words, but you can recognize an equitable estoppel argument by its claim of unfairness. Examples of how a non-attorney might frame an equitable estoppel defense are:

- "I shouldn't have to pay when I didn't even know this was my child."
(Under current law, this would not be a successful defense)
- "The other parent denied me any chances to see the children."
(Depending on the circumstances, this may be a successful defense).
- "The other parent hid the child from me for six years and said I wouldn't have to pay support if I left them alone."
(Depending on the circumstances, this may be a successful defense)
- "The other parent told me this wasn't my child."
(Under current law, this would not be a successful defense)
- "The other parent and I agreed I wouldn't pay child support, so I didn't pay for 15

years and now I have this huge bill I can't pay."
(Depending on the circumstances, this may be a successful defense)

Required procedure for raising an equitable estoppel defense

Equitable estoppel is an affirmative defense, so the one who wants to use the defense must raise and prove it. ARM 46.30.629 (1) requires the one claiming an affirmative defense to raise it by written notice to the hearings office at least ten days before a scheduled hearing. Except as required by subpoena or written request, the CSED is not responsible for producing or obtaining documents or witnesses to help a party prove an affirmative defense. ARM 46.30.629 (2). The burden of raising and proving the defense is on the one attempting to use it.

What to do if someone makes an equitable estoppel defense for the first time less than 10 days before a hearing or during a hearing

ARM 46.30.629 (3) authorizes the hearing officer to delay or continue the hearing when a party raises an affirmative defense less than ten days before the hearing. If a party raises an equitable estoppel defense shortly before or during the hearing, tell the Administrative Law Judge that the defense has surprised you. Request a delay or a continuance to consider the defense and possibly to provide evidence to refute it.

9. LUMP SUMS

Great Falls

-Lloyan Faulkner;\$30,000.00;NAFDC
-Susan Tanner, April Armstrong; \$10,323.00; AFDC arrears; writ and warrant on WC settlement from Traveler's

Billings

-Vicki Speidel;\$7,145.78;NAFDC arrears; lump sum after issuing NOI;
-Vicki Speidel, Linda Schweitzer;\$2,825.80;settlement in full, Risk Management and Tort Defense Division
-Vicki Speidel; \$4,088.65; NAFDC arrears

Interstate

Kay Chevallier, Lonnie Olson;\$30,007.00;NAFDC arrears

10. GUIDELINES/FOSTER CARE/NOCS

Please make a note on Management Memo #95-02, Item 19, page 15, last paragraph, "Superseded by Management Memo 99-03, Item #10."

Management Memo #95-02, Item #19, entitled "FOSTER CARE/ISSUANCE OF NFR's", explains the procedures for issuing a joint NFR (now NOCS) when the child is in foster

care and the parents live together as an intact family. The procedure includes instructions for combining the parents' income into one column of the guidelines worksheet so that an accurate self-support reserve will be included in the calculation. When the guidelines changed last November, the procedure for a guidelines calculation for a joint NOCS also changed.

Under the current child support guidelines, a personal allowance (new name for self-support reserve) is deducted from a party's income to provide for at least a portion of the person's self-support reserve. There is no longer a mechanism like the household size determination to arrive at an allowance for more than one person. Therefore, when you include both parents' income in one column, ***you must override the entry for the personal allowance which will automatically be entered by the computer.***

The personal allowance for a two-person household is \$14,378 (130% of the poverty guidelines for a two-person household). Both SEARCHS GLW screens and Bourdeau's CS99.2a allow you to override the entry for personal allowance. Once you enter the new figure, both programs will correctly add, subtract, etc. so you don't have to do it manually.

There may be other scenarios (not many) in which you will decide to increase the personal allowance. Please remember this adjustment must be made anytime the personal allowance is intended to cover more than one person. If you don't have the poverty guidelines available (remember they are updated annually in March) please contact Ann Steffens at 329-7933.

11. **THOUGHTS FOR THE DAY**

- God gives us the nuts, but he does not crack them.
- It is easy to sit up and take notice. What is difficult is to get up and take action.
- Consider the HAMMER. It keeps it head. It doesn't fly off the handle. It keeps pounding away. It finds the point, then drives it home. It looks at the other side, too, and thus clinches the matter. It makes mistakes, but when it does, it starts all over.
- Only in America do we use answering machines to screen calls and then have call waiting so we won't miss a call from someone we didn't want to talk with in the first place.
- I bought the latest computer; It came completely loaded; It was guaranteed for 90 days; But in 30 was outmoded.
- The hardest thing to learn in life is which bridge to cross and which to burn.
- Be more concerned with your character than your reputation, because your character is what you really are, while your reputation is merely what others think you are.
- Some of us are like wheel-barrows, only useful when pushed, and very easily upset.
- Variety may be the spice of life, but monotony buys the groceries.
- I had plastic surgery last week. I cut up my credit card.
- The word try is not in the vocabulary of high-achieving people.
- The first thing is to last.

- In calm waters, every ship has a good captain.
 - Speak only well of people and you will never have to whisper.
 - Anyone without a sense of humor is at the mercy of everyone else.
- [Source: Bits and Pieces, The Economic Press, Inc. 12 Daniel Road, Fairfield N.J.]

OTHER THOUGHTS TO PONDER

- A day without sunshine is like night.
- On the other hand, you have different fingers.
- When the chips are down, the buffalo is empty.
- Despite the cost of living, have you noticed how popular it is?
- Support bacteria, they're the only culture some people have.
- When everything is coming your way, you're in the wrong lane.
- If the #2 pencil is the most popular, why is it still #2?
- Why are hemorrhoids called "hemorrhoids" instead of "asteroids?"
- If the black box flight recorder is never damaged in a plane crash, why isn't the whole plane made of the same stuff?
- Why is there an expiration date on sour cream?
- Why are there interstate highways in Hawaii?

12. CODING NO JURISDICTION CASES: NATIVE AMERICANS

Pursuant to the new Federal performance incentive structure, States have been given the opportunity to exclude cases in which it has been determined that there is no jurisdiction to proceed. The instructions on the OCSE-157 for this exclusion are as follows:

Line 3 - Cases Open for Which the State has no Jurisdiction

Report the number of open cases on the last day of the fiscal year [9/30] over which the State has no jurisdiction. This includes cases that involve an individual over whom the IV-D agency has no civil jurisdiction (e.g. subject matter, territorial, or personal jurisdiction) available to pursue or effectuate any child support action. In addition, no formal or informal reciprocal or cooperative agreement or other mechanism is in place to enable the State agency to take actions necessary to establish paternity, establish a child support order or enforce the order.

These cases most often involve a non-custodial parent who resides in the civil jurisdiction boundaries of another country or a Federally recognized Indian Tribe and no income or assets of this individual are located or derived from outside that jurisdiction. However, these cases remain open for IV-D purposes and are periodically monitored to determine if there is a change in circumstances that could lead to further action.

Non-jurisdiction cases report[ed] on this line should not be reported in any other section and on any other line on this report. Please note that the accuracy of this information is subject to audit review.

In utilizing this exclusion, it is important that it be understood that once a case is placed onto Line 3 of the OCSE-157, it cannot be counted anywhere else on the report (including case circumstances where CSED efforts to establish and/or enforce child support obligations have been successful). Additionally, because the accuracy of this information is subject to Federal audit, the CSED must ensure that Native American Jurisdiction (NAJ) cases, particularly those coded with an "L" code, are correctly and uniformly coded on SEARCHS.

For purposes of data reliability, the following is intended to provide additional policy and clarification for the coding of NAJ cases on the CAS screen.

"K" These are cases needing additional information to make a jurisdiction determination. The use of this code should be limited only to new (PND) cases or cases in locate (LOC). This code stays in place until the enrollment information is verified and entered on PAR for the Obligor.

"L" These are cases where the review has been completed and the determination has been made that there is no jurisdiction to proceed any further on the case until circumstances change. This code should be utilized for cases only where an order has not been established, (PAT) and (EST).

Note: Cases coded "L" will be placed onto Line 3 of the OCSE-157 and, as a result, be excluded for performance incentive purposes.

"N" These are cases where the review has been completed and the determination made that there is jurisdiction to proceed. This is to be used in all enforcement (ENF) cases in which the State has jurisdiction to proceed with collection actions against a source of income. This is also used in PAT and EST where the State has jurisdiction to proceed with action to establishment a child support obligation.

"H" These are cases where the review has been completed. However, these cases are on hold or inactive for a reason other than NAJ jurisdiction. Examples of this include the following: the Obligor is incarcerated, on SSI, on assistance, or a minor. This code can be utilized for cases in PAT, EST, and ENF.

"M" These are cases containing a child support order where the review has been completed. The determination has been made that the source of income available for seizure/withholding is under exclusive Tribal jurisdiction. This code should only be used for cases in an ENF status.

NAJ Coding: Questions & Answers

Question 1: How should multiple cp, multiple activity cases be coded? For example, one sub-case is PAT and the CSED has no jurisdiction to proceed and the

other sub-case contains a support order. In this scenario, the case is "L" for the first sub-case & might be "M" or "N" for the second sub-case.

Answer 1:

SEARCHS does not allow NAJ cases to differ in coding at the sub-case level. Because of this, the CSED needs to consider the fact that coding both of these sub-cases as "L" will, in effect, incorrectly inflate Line 3 of the OCSE-157. This is because the Federal government requires States to report its cases at the sub-case level.

The CSED needs to "error on the side of caution" when excluding cases from its performance incentive formulas. Therefore, use the "L" code only when all sub-cases fall within the standards of no jurisdiction to proceed.

REFERENCES: CSED Policy Manual 250.1, MM 96-01: #21 & OCSE-98-20 (revised)

Attachment #1

1999 LEGISLATIVE UPDATE
SENATE BILLS 30 & 76

Attachment #1

Statute Affected	What Changed?	Effective Date
Various	Removed the contingent termination language in statutes amended in 1997. (SB30)	2/18/99
§ 50-15-403	Requires death certificates to include deceased's social security number. (SB30)	1/1/00 ¹
§ 53-2-613(3)	"(3) The assignment: (a) is effective for both current and accrued support, including unpaid support that accrued before the applicant received public assistance, and medical obligations; (b)[no change]; and (c) [no change]." Subsection (d) was deleted. (SB76)	2/18/99
§ 61-5-107	Requires applicant's ssn on all driver license applications. (SB76)	10/1/00 ²
§ 61-5-111	Prevents DOJ from using ssn as driver license number, unless applicant permission. (SB76)	10/1/00 ²
§ 87-2-106	Requires applicant's ssn on hunting, fishing, trapping license applications. FWP must keep confidential except may provide to CSED. FWP must purge # from data base after 5 years. (SB76)	1/7/99 ³
§ 87-2-202	Requires applicant's ssn on wildlife conservation licenses. FWP must keep confidential except may provide to CSED. FWP must purge # from data base after 5 years. (SB76)	1/7/99 ³

1. Unless exempted from requirement.
2. Applies to licenses issued on or after 1 October 2000.
3. Applies to license years beginning on or after 1 March 2000.

**1999 LEGISLATIVE UPDATE
HOUSE BILL 127**

Statute Affected	What Changed?	Effective Date
§ 40-4-210(2)	"A district court shall recognize and, if petitioned to do so, enforce according to its terms a child support order issued by a court or administrative agency of another state if the order was made consistent with the full faith and credit provisions of 28 USC 1738B." New section.	10/1/99
§ 40-4-210(3)	"District court may not establish a subsequent child support order that conflicts with an existing order entitled to recognition under subsection(2) or, except as provided in subsection (6), modify an existing order entitled to recognition under subsection (2)." New section.	10/1/99
§ 40-4-210(4)	"In interpreting a child support order issued in another state, including the duration of current payments and other obligations of support, a district court shall apply the law of the issuing state." New section.	10/1/99
§ 40-4-210(5)	"In an action to enforce arrears under a child support order issued in another state, a district court shall apply the statute of limitations of this state or of the issuing state, whichever provides the longer period of limitation." New section.	10/1/99
§ 40-4-210(6)	"A district court has jurisdiction to modify a child support order issued by a court or administrative agency of another state only after meeting the requirements of 40-5-194 and the standards for modification of interstate support orders set out in 28 USC 1738B." New section.	10/1/99
§ 40-5-201(2), (13) & (14)	In (2), minor change to definition of child, substituting "a" for "any", adding reference to "in a IV-D case, a person" in subsection (iv); re-arranged references to reciprocal acts. In (13), added to definition of "support debt" subsection (c): "fines, fees, penalties, interest, and other funds and costs that the department is authorized under this chapter to collect by the use of any procedure available for the payment, enforcement, and collection of child support or spousal maintenance or support." In (14), added subsection (c): "when the context requires, includes: (i) judgments and orders providing periodic payments for the maintenance or support of the custodial parent of a child receiving services under this chapter; and (ii) amounts for the recovery of fines, fees, penalties, interest, and any other funds or costs that the department it authorized under this chapter to collect by the use of any procedure available for the payment, enforcement, and collection of child support or spousal maintenance or support."	10/1/99
§ 40-5-202 (6)(a)	Adds reference to assignments under 42 USC 608(a)(3): "When the department is providing services, a recipient or former recipient of public assistance who assigned support rights under 42 USC 602(a)(26) OR 42 USC 608(a)(3). . . "	5/10/99
§ 40-5-202(16)	"A hearing on a claim that property is exempt from execution must initially be conducted teleconference methods and is subject to the Montana Administrative Procedure Act. At the request of a party or upon a showing that a party's case is substantially prejudiced by the lack of an in-person hearing, the hearings officer shall grant a de novo in person hearing." New section.	5/10/99

Statute Affected	What Changed?	Effective Date
§ 40-5-207	Revised section: " If the department is providing child support enforcement services, the department may also, using any remedy available to it, collect and enforce any judgment or order for the maintenance or support of the child's custodial parent."	10/1/99
§ 40-5-210(3)	Removes CSED authority to assess a handling fee/ Budget authority to assess fee ends June 30, 1999.	10/1/99
§ 40-5-210(6)	Revised to allow CSED to pass on fees assessed by other entities: "If the fee is owed by the obligee, the fee may be collected separately through any remedy available to the department for the collection of child support or, if the fee has been assessed and deducted from the collection by an entity other than the department, the department may withhold the fee amount out of any payment collected on behalf of the obligee. The obligor must receive full credit for the payment as is the withholding of fees did not occur."	10/1/99
§ 40-5-210(10)	"A district court may not order the department to charge or collect fees, except as authorized under this section and rules implementing this section." New section.	10/1/99
§ 40-5-224(1)	Changes references to "warrant for distraint" to "support lien," permitting issuance of a support lien during pendency of a collection action in emergency situations.	10/1/99
§ 40-5-224(2)	Permits enforcement of support lien upon conclusion of pending action, or upon failure to timely request a hearing in the pending collection action.	10/1/99
§ 40-5-225(2) & (4)	In (2)(f), deletes "however," and substitutes "and that"; changed reference in (4)(b) to obligor's ability to recover costs from obligee in action where support order is later set aside.	10/1/99
§ 40-5-225(9)	"If the department is unable to enter an obligation in accordance with the child support guidelines because of default of a party, the department may, upon notice to the parties to the original order, substitute a support order made in accordance with the guidelines for the defaulted order." New section.	10/1/99
§ 40-5-225(10)	"After establishment of an order under this section, the department may initiate a subsequent action on the original order to establish a support obligation for another child of the same parents."	10/1/99
§ 40-5-247(1)	In subsection (1)(b), the second sentence is followed by: "The warrant must include notice of: (i) the existence of exemptions from execution; (ii) the procedure by which an exemption may be claimed; and (iii) the right to request a hearing to determine an exemption claim."	5/10/99
§ 40-5-247(2)	Inserted new subsections (2)(b) & (c): "(b) A copy of the warrant must be mailed to the obligor at the obligor's last known address at or promptly after the time of seizure." "(c) Within 10 days after the date of the mailing of the warrant to the obligor, an obligor claiming an exemption may request a hearing to determine the existence of an exemption. The department shall convene a contested case hearing to determine the claimed exemption. An order entered under this section is a final agency order, subject to judicial review under Title 2, chapter 4, part 7." Former (b) is now (d), former (c) is now (e), former (d) is now (f).	5/10/99

Statute Affected	What Changed?	Effective Date
§ 40-5-253(4)	Revises service requirements for petitions for judicial review: "A summons must be issued and served under Rule 4, Montana Rules of Civil Procedure, upon the child support enforcement division of the department and each party, along with the petition for judicial review. The division may be served through any of its employees. The district court does not obtain jurisdiction unless the petition for judicial review is served on all parties within 30 days after the petition is filed with the district court."	5/10/99
§ 40-5-273(1)	Clarifies service of review notices: "A review application setting forth facts meeting any of the criteria for review of a child support order established in 40-5-272 must be scheduled for an administrative review. Unless the department determines under the rules of the department that an in-person review is necessary, the review must be conducted by teleconferencing methods. A notice that an administrative review will be conducted must be served either personally or by certified mail on the obligor and the obligee. If service is by certified mail, the department must receive a return receipt signed by the person to whom the notice was mailed for the service to be effective. The notice must include the following information"	5/10/99
§ 40-5-273(2)	Clarifies service of orders to produce: "The department may issue an order commanding the obligor or the obligee, or both, to produce financial information. The order must be served either personally or by certified mail with the notice that a review will be conducted. If service is by certified mail, the department must receive a return receipt signed by the person to whom the order was mailed for the service to be effective. . . ."	5/10/99
§ 40-5-273(9)	Revised existing section: "In addition to complying with other requirements of law, the modifying order must include provisions (a) that each party, other than the department, is required to promptly file with the department and update, as necessary, information on: (i) the identity of the party; (ii) the party's social security number; (iii) the party's residential and mailing addresses; (iv) the party's telephone number; (v) the party's driver license number; (vi) the name, address, and telephone number of the party's employer; and (vii) if the child is covered by a health or medical insurance plan, the name of the insurance carrier or medical insurance plan, the policy identification number, the names of the persons covered, and any other pertinent information regarding coverage or, if the child is not covered, information as to availability of coverage for the child through the obligor's and obligee's employers;" Substituted new (b): "that in a subsequent child support enforcement action, upon sufficient showing that diligent effort has been made to ascertain the location of a party, the department's due process requirements for notice and service of process are met with respect to the party upon delivery of written notice by regular mail to the most recent known address of the party or the party's employer's address reported to the department; and" Re-designated former (b) as (c).	5/10/99
§ 40-5-273(10)	"The department shall keep information provided under subsection 9(a) confidential except as necessary for purposes of Title IV-D of the Social Security Act." Renumbered existing (10) as (11), and existing (11) as (12).	5/10/99
§ 40-5-315 (3)(b)	Eliminated signature requirement in definition of "alternative arrangement"; must still be in writing.	5/10/99
§ 40-5-403(1)	Eliminated signature requirement in definition of "alternative arrangement"; must still be in writing.	10/1/99

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§ 40-5-273(9)	Revised existing section: "In addition to complying with other requirements of law, the modifying order must include provisions (a) that each party, other than the department, is required to promptly file with the department and update, as necessary, information on: (i) the identity of the party; (ii) the party's social security number; (iii) the party's residential and mailing addresses; (iv) the party's telephone number; (v) the party's driver license number; (vi) the name, address, and telephone number of the party's employer; and (vii) if the child is covered by a health or medical insurance plan, the name of the insurance carrier or medical insurance plan, the policy identification number, the names of the persons covered, and any other pertinent information regarding coverage or, if the child is not covered, information as to availability of coverage for the child through the obligor's and obligee's employers;" Substituted new (b): "that in a subsequent child support enforcement action, upon sufficient showing that diligent effort has been made to ascertain the location of a party, the department's due process requirements for notice and service of process are met with respect to the party upon delivery of written notice by regular mail to the most recent known address of the party or the party's employer's address reported to the department; and . . . " Re-designated former (b) as (c).	5/10/99
§ 40-5-273(10)	"The department shall keep information provided under subsection 9(a) confidential except as necessary for purposes of Title IV-D of the Social Security Act." Renumbered existing (10) as (11), and existing (11) as (12).	5/10/99
§ 40-5-315 (3)(b)	Eliminated signature requirement in definition of "alternative arrangement" ; must still be in writing.	5/10/99
§ 40-5-403(1)	Eliminated signature requirement in definition of "alternative arrangement" ; must still be in writing.	10/1/99

Statute Affected	What Changed?	Effective Date
§ 40-5-701(13)	Revised: "'Support debt' or 'support obligation' means the amount created by the failure to provide or pay: (a) support to a child under the laws of this or any other state or under a support order; (b) court-ordered spousal maintenance or other court-ordered support for the child's custodial parent; or (c) fines, fees, penalties, interest, and other funds and costs that the support enforcement entity is authorized to collect by the use of any procedure available to the entity for the payment, enforcement, and collection of child support or spousal maintenance or support."	10/1/99
§ 40-5-701(15)	Changed definition of "support order" by addition of new subpart (b), and renumbering existing subparts (a)-(d) as (a)(i) through (a)(iv): "(b) If an action for child support is commenced under this part and the context so requires, support order also includes: (i) judgments and orders providing periodic payments for the maintenance or support of the child's custodial parent; and (ii) amounts for the recovery of fines, fees, penalties, interest, and any other funds and costs that the support enforcement entity is authorized to collect by the use of any procedure available to the entity for the payment, enforcement, and collection of child support or spousal maintenance or support."	10/1/99
§ 40-5-806	Deleted existing subsection (7); renumbered existing subsection (8) to (7), and existing (9) to (8).	10/1/99
§ 40-5-807	Minor changes made to statutory references to 40-5-806(9) within statute, so the reference is now to (8).	10/1/99
§ 40-5-901	Removes contingency language for new hire reporting; clarifies definition of "support order" in (d): "may include an order for maintenance or other support to be paid to a child's custodial parent."	10/1/99
§ 40-5-211	Repealed section.	10/1/99
§ 40-5-212	Repealed section.	10/1/99
§ 40-5-223	Repealed section.	10/1/99

Attachment # 2

WAGE ASSIGNMENT

TO My Employer: _____)
_____)
_____)
_____)

I, _____, acknowledge that I have a duty to provide support for my minor children, namely: _____.

In order to fulfill my obligation to provide support, I hereby assign the sum of _____ and _____/100 dollars (\$ _____) to be deducted from my salary/wages every payday. All assigned monies should be made payable to the Child Support Enforcement Division, and should be marked with : the pay date, my name, and my social security number, which is _____, in order to insure proper crediting.

Please send the assigned money to:

Child Support Enforcement Division
P.O. Box 5955
Helena MT 59604-8001

This assignment shall be effective from the _____ day of _____, _____, until further notice.

DATED this _____ day of _____, _____.

Signature

STATE OF MONTANA)
 : ss.
County of _____)

On this _____ day of _____, _____, before me, a Notary Public for the State of Montana, personally appeared _____, known or proved to me to be the person whose name is subscribed above, and acknowledged that he/she did execute the foregoing.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the date written above.

(SEAL)

Notary Public
Residing at: _____
My Commission Expires: _____

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DEPARTMENT OF
PUBLIC HEALTH AND HUMAN SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION



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May 1, 1997

To: All CSED Manual Holders
From: Gwen Kloeber, Policy Development Officer
Subject: Overcollection Agreements Manual Pages

gk

The enclosed Manual pages contain procedures for obtaining and applying "overcollection" agreements in situations where overcollected amounts would normally be refunded. The pages also give CSED policy for determining when overcollection agreements are appropriate. Note that the procedures cover overcollections created by "annualization" (employer withholding via 26 or 52 pay periods) as well as overcollections resulting from non-income withholding actions.

The Agreement to Apply Funds document referenced in these pages is now available on SEARCHS. Also, for annualization situations, SEARCHS enhancements are being prepared to automatically apply the overcollections when the proper agreement is in place.

Please insert the enclosed pages in your Manual, and write in an entry for this section in the Table of Contents.

Enclosure

DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION

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August 19, 1992

To: Manual Holders

From: Dennis Shober, Field Services Bureau Chief

Subject: New Child Support Guidelines



As you all know, new child support guidelines became effective July 31, 1992. Although new manual pages have not yet been prepared, please start using the new guidelines, worksheets, and financial affidavit. **Please read through the rules carefully before using.**

You will all receive a copy of the following materials to keep for your own reference:

- 1) A copy of the "draft" ARM replacement pages;
- 2) A set of all the worksheets and tables - CS 404.1A (Rev. 7/92), CS 404.1B (New 7/92), and CS 404.1C (New 7/92); and
- 3) A Financial Affidavit - CS 404.6A (Rev. 7/92).

This will be your packet to keep. In a separate mailing your office will receive supplies of these materials to distribute and for use as necessary for casework.

The "draft" ARM replacement pages are your working copy of the guideline rules. Due to the nature of the administrative rulemaking process, although the new rules became effective upon the publishing of a Notice of Adoption in the Montana Administrative Register, a complete set of rules does not get printed in the Administrative Rules of Montana (ARM) until the next quarterly printing cycle - September 30, 1992. Individuals with subscriptions to the ARM will receive the real replacement pages in early November 1992. Because of this delay, we have asked the Department of SRS to provide us these "draft" replacement for our own use as working copies of the new rules and for distribution to the bench, bar and public.

New Child Support Guidelines
page 2

Supervisors, Attorneys, and Team Leaders will also receive a copy of the Notice of Adoption. The Notice of Adoption, in addition to being the official notice of the adoption of the new rules, contains a summary of the comments received by the public during the rulemaking process and the CSED's comments to those responses. This material is often used by attorneys as legislative history, that is, to help explain why the rule was drafted the way it was. Investigators might find it interesting background material to help understand the new rules.

All attorneys, judges and the few others who have requested the guideline materials from the Administrative Office in Helena have received a copy of the Notice of Adoption, the "draft" ARM replacement pages, a complete set of worksheets and tables, and a financial affidavit. Calls to your office for these materials may be referred to Julie Bailey at 444-4614 or you can take the name, address and phone number of the individual calling and pass the information along to Julie or to Sherri Carter. Your office will be receiving a limited number of packets to distribute to walk-in attorneys or others.

BEFORE THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES OF THE
STATE OF MONTANA

In the matter of the	)	NOTICE OF THE ADOPTION OF
adoption of [Rule I]	)	ADOPTION OF [RULE I]
46.30.1502, [Rule II]	)	46.30.1502, [RULE II]
46.30.1508, [Rule III]	)	46.30.1508, [RULE III]
46.30.1514 through [Rule V]	)	46.30.1514 THROUGH [RULE V]
46.30.1516, [Rule VI]	)	46.30.1516, [RULE VI]
46.30.1520 through [Rule	)	46.30.1520 THROUGH [RULE
VIII] 46.30.1522, [Rule IX]	)	VIII] 46.30.1522, [RULE IX]
46.30.1532 through [Rule	)	46.30.1532 THROUGH [RULE
XII] 46.30.1535, [Rule XIII]	)	XII] 46.30.1535, [RULE
46.30.1538, [Rule XIV],	)	XIII] 46.30.1538, [RULE
[Rule XV] 46.30.1541 and	)	XIV], [RULE XV] 46.30.1541
[Rule XVI] 46.30.1542,	)	AND [RULE XVI] 46.30.1542,
amendment of rules	)	AMENDMENT OF RULES
46.30.1501, 46.30.1507,	)	46.30.1501, 46.30.1507,
46.30.1513, 46.30.1525,	)	46.30.1513, 46.30.1525,
46.30.1543 and 46.30.1549	)	46.30.1543 AND 46.30.1549
and repeal of Rules	)	AND REPEAL OF RULES
46.30.1519, 46.30.1531 and	)	46.30.1519, 46.30.1531 AND
46.30.1537 pertaining to	)	46.30.1537 PERTAINING TO
child support	)	CHILD SUPPORT

TO: All Interested Persons

1. On March 12, 1992, the Department of Social and Rehabilitation Services published notice of the proposed adoption of [Rule I] 46.30.1502, [Rule II] 46.30.1508, [Rule III] 46.30.1514 through [Rule V] 46.30.1516, [Rule VI] 46.30.1520 through [Rule VIII] 46.30.1522, [Rule IX] 46.30.1532 through [Rule XII] 46.30.1535, [Rule XIII] 46.30.1538, [Rule XIV], [Rule XV] 46.30.1541 and [Rule XVI] 46.30.1542,, amendment of rules 46.30.1501, 46.30.1507, 46.30.1513, 46.30.1525, 46.30.1543 and 46.30.1549 and repeal of Rules 46.30.1519, 46.30.1531 and 46.30.1537 pertaining to child support at page 403 of the 1992 Montana Administrative Register, issue number 5.

2. The Department has amended rules 46.30.1501, 46.30.1507, 46.30.1513 and 46.30.1549 as proposed and has repealed rules 46.30.1519, 46.30.1531 and 46.30.1537 as proposed.

3. The Department has adopted [Rule VIII] 46.30.1522, [Rule IX] 46.30.1532, [Rule X] 46.30.1533, [Rule XI] 46.30.1534, [Rule XIII] 46.30.1538 and [Rule XV] 46.30.1541 as proposed.

4. The Department has not adopted [Rule XIV] as proposed.

5. The Department has amended and adopted the following rules as proposed with the following changes:

[RULE I] 46.30.1502 DEFINITIONS For purposes of this chapter, unless the context requires otherwise, the following definitions apply:

Subsections (1) through (9) remain as proposed.

(10) "STANDARD OF LIVING" INCLUDES THE NECESSITIES, COMFORTS AND LUXURIES ENJOYED OR ASPIRED TO BY EITHER PARENT, THE CHILD OR BOTH PARENTS AND THE CHILD, WHICH ARE NEEDED TO MAINTAIN THEM IN CUSTOMARY OR PROPER COMMUNITY STATUS OR CIRCUMSTANCES.

AUTH: Sec. 40-5-202 MCA

IMP: Sec. 40-5-209 MCA

[RULE II] 46.30.1508 DETERMINATION OF GROSS INCOME

Subsection (1) remains as proposed.

(a) "gross income" means income from any source, except as excluded in subsection (d), and includes but is not limited to income from salaries, wages, commissions, bonuses, earnings, profits, dividends, severance pay, pensions, PRE-RETIREMENT DISTRIBUTIONS FROM RETIREMENT PLANS, interest, trust income, annuities, capital gains, royalties, social security benefits, veteran's benefits, workers' compensation benefits, unemployment benefits and alimony or spousal maintenance;

Subsection (1)(b) remains as proposed.

(c) gross income for those who are self-employed, or who receive profits from a business enterprise such as a joint venture, a partnership, rental property, a sub-chapter S corporation, or a Montana close corporation includes gross receipts minus ordinary and necessary expenses for self-employment or business operation. Specifically GENERALLY excluded from ordinary and necessary expenses are depreciation and other non-cash deductions, even if it is otherwise THOUGH THOSE DEDUCTIONS ARE allowable by the internal revenue service. AS AN EXCEPTION, UPON A SHOWING OF ECONOMIC NECESSITY, DEPRECIATION FOR VEHICLES, MACHINERY AND OTHER TANGIBLE ASSETS MAY BE DEDUCTED;

Subsection (1)(d) remains as proposed.

(e) ACTUAL BUT NOT IMPUTED interest from one-time gifts and inheritances should be considered as gross income, ~~while~~ the NON-PERFORMING property itself or the principal should be considered as an asset under [Rule III] ARM 46.30.1514. FOR LUMP SUM SOCIAL SECURITY PAYMENTS, REFER TO [RULE XVI] ARM 46.30.1542.

(2) IN DETERMINING A PARENT'S GROSS INCOME, DO NOT CONSIDER INCOME ATTRIBUTABLE TO SUBSEQUENT SPOUSES, STEPPARENTS, DOMESTIC ASSOCIATES AND OTHER PERSONS WHO ARE PART OF THE PARENT'S HOUSEHOLD, AS DEFINED IN [RULE VII(3)] ARM 46.30.1521
(3). IF A PERSON WITH A SUBSEQUENT FAMILY HAS INCOME FROM

OVERTIME OR A SECOND JOB, THAT INCOME IS PRESUMED TO BE FOR THE USE OF THE SUBSEQUENT FAMILY, AND IS NOT INCLUDED IN GROSS INCOME FOR THE PURPOSES OF DETERMINING SUPPORT FOR A PRIOR FAMILY. THE PRESUMPTION MAY BE REBUTTED UPON A SHOWING THAT THE ADDITIONAL INCOME IS DISCRETIONARY.

AUTH: Sec. 40-5-202 MCA

IMP: Sec. 40-5-209 MCA

[RULE III] 46.30.1514 DETERMINATION OF INCOME ATTRIBUTED TO ASSETS Subsection (1) remains as proposed.

(2) Income should be attributed to the net market value of non-performing assets at the ~~current interest rate for ten-year U.S. treasury bonds at the time determination is made~~ AVERAGE 10 YEAR U.S. TREASURY CONSTANT MATURITY RATES FOR THE PREVIOUS CALENDAR YEAR, or at another appropriate rate ordered by a court or administrative hearing officer. The rate should be based on a 365 day year.

Subsection (3) remains as proposed.

AUTH: Sec. 40-5-202 MCA

IMP: Sec. 40-5-209 MCA

[RULE IV] 46.30.1515 INCOME VERIFICATION/DETERMINING ANNUAL INCOME Subsection (1) remains as proposed.

(2) Income statements of the parents should be verified with documentation of both current and past income to the extent such documentation is available to the parent. Verification may include pay stubs, employer statements, and profit and loss statements ~~made by a certified public accountant if the parent is self-employed.~~ IF A PROFIT AND LOSS STATEMENT IS PREPARED BY A PARENT OR BY ANOTHER PERSON WHO IS NOT A LICENSED ACCOUNTANT OR CERTIFIED PUBLIC ACCOUNTANT, THE PARENT MUST CERTIFY UNDER OATH THAT THE INFORMATION SHOWN ON THE STATEMENT IS CORRECT. Documentation of income may be supplemented with copies of income tax returns. NON-CASH BENEFITS RECEIVED BY A PARENT SHOULD ALSO BE VERIFIED. FOR EXAMPLE, VERIFY THE REASONABLE MONTHLY VALUE OF THE HOUSE USED BY THE RANCH HAND AS PART OF HIS OR HER EMPLOYMENT.

Subsections (3) through (3)(b) remain as proposed.

AUTH: Sec. 40-5-202 MCA

IMP: Sec. 40-5-209 MCA

[RULE V] 46.30.1516 DETERMINATION OF NET INCOME

(1) "Net income" means gross income, including imputed income and income attributed to assets, less any deductions for state or federal taxes, social security, and other similar deductions required by law or court order. Unreimbursed expenses incurred as a condition of employment such as union dues, ~~retirement contributions,~~ uniforms and other occupational or business expenses should also be deducted. CONTRIBUTIONS TOWARDS INTERNAL REVENUE SERVICE APPROVED RETIREMENT PLANS,

WHETHER VOLUNTARY OR MANDATORY, ARE DEDUCTIBLE FROM GROSS INCOME UP TO THE ACTUAL AMOUNT CONTRIBUTED OR 6.5% OF GROSS INCOME, WHICHEVER IS LESS.

Subsections (1)(a) through (3) remain as proposed.

(4) Deductions for the convenience of the parent, such as credit union payments, deferred compensation, ~~retirement~~ and savings are not to be deducted from gross income.

(5) In some cases an employed parent may also operate a business or farm, or a self-employed parent may have more than one business. A net loss in the operation of a business or farm, ~~unless the parent cannot reasonably remove himself or herself from the unprofitable situation~~ should not offset income from employment or from the operation of a more successful enterprise, UNLESS THE PARENT CANNOT REASONABLY REMOVE HIMSELF OR HERSELF FROM THE UNPROFITABLE SITUATION. Property associated with the unprofitable business or farm should be considered an asset under [Rule III] ARM 46.30.1514.

Subsection (6) remains as proposed.

AUTH: Sec. 40-5-202 MCA

IMP: Sec. 40-5-209 MCA

[RULE VI] 46.30.1520 ALIMONY, MAINTENANCE, PRE-EXISTING CHILD SUPPORT OBLIGATIONS AND RESPONSIBILITY FOR OTHER CHILDREN Subsections (1) through (2)(b) remain as proposed.

(3) Use of the deductions provided in this rule are appropriate at the time of the establishment of a child support order, ~~or in a proceeding to modify an existing order, unless otherwise provided in this subsection.~~ THE FOLLOWING LIMITATIONS APPLY:

Subsections (3)(a) and (3)(b) remain as proposed.

AUTH: Sec. 40-5-202 MCA

IMP: Sec. 40-5-209 MCA

[RULE VII] 46.30.1521 SELF SUPPORT RESERVE/NET RESOURCES AVAILABLE FOR SUPPORT Subsection (1) remains as proposed.

(2) IN DETERMINING A PARENT'S SELF SUPPORT RESERVE, INCOME OF STEPPARENTS, SUBSEQUENT SPOUSES, DOMESTIC ASSOCIATES AND OTHERS WHO ARE PART OF A PARENT'S HOUSEHOLD IS PRESUMED TO BE AVAILABLE TO THE PARENT FOR SHARING, ON A PROPORTIONATE BASIS, THE PARENT'S HOUSEHOLD EXPENSES.

Subsections (2) through (4) remain as proposed but are renumbered (3) through (5).

AUTH: Sec. 40-5-202 MCA

IMP: Sec. 40-5-209 MCA

46.30.1525 ADJUSTMENTS TO BASIC CHILD SUPPORT SUPPLEMENTS FOR PRIMARY CHILD SUPPORT NEED Subsections (1) through (1)(b)(i) remain as proposed.

(2) AFTER DETERMINING EACH PARENT'S SHARE OF THE TOTAL CHILD SUPPORT OBLIGATION, EACH PARENT SHALL RECEIVE CREDIT FOR THE AMOUNT OF THE SUPPLEMENTAL NEEDS PAID BY THAT PARENT.

AUTH: Sec. 40-5-202 MCA

IMP: Sec. 40-5-209 MCA

[RULE XII] 46.30.1535 TOTAL MONTHLY SUPPORT AMOUNT

Subsection (1) remains as proposed.

(2) ~~In the usual case of sole custody~~ IN SOLE CUSTODY CASES, OR IN JOINT CUSTODY CASES WHERE ONE PARENT HAS PRIMARY PHYSICAL CUSTODY, the custodial parent should retain his or her child support obligation and the noncustodial parent shall pay his or her total monthly child support obligation to the custodial parent or to such other person or agency entitled to receive the payment.

Subsections (3) and (4) remain as proposed.

(5) In those cases where extended visitation/shared physical custody is awarded, an adjustment to the primary child support need is appropriate. Extended visitation/shared physical custody occurs when a child spends more than ~~30 percent of his or her days and nights~~ 110 DAYS OF each 365 day calendar year with the parent who in sole custody cases would pay over his or her share of the child support obligation to the primary custodian.

(a) FOR THE PURPOSES OF THIS RULE:

(i) A "DAY" IS WHEN A PARENT HAS PHYSICAL CONTROL OF A CHILD FOR THE MAJORITY OF A 24 HOUR CALENDAR DAY; AND

(ii) THE "PRIMARY CUSTODIAN" IS THE PARENT WHO HAS PHYSICAL CUSTODY OF THE CHILD MORE THAN 50% ANNUALLY. THE "SECONDARY CUSTODIAN" IS THE PARENT WHO HAS PHYSICAL CUSTODY FOR THE REMAINDER OF THE YEAR.

(ab) To adjust for extended visitation/shared physical custody, reduce the ~~payer parent's~~ SECONDARY CUSTODIAN'S share of the basic primary child support need by one percent for each percent of time in excess of 30 percent DAY IN EXCESS OF 110 DAYS. For example, the basic primary child support need is \$400.00. Parent B THE SECONDARY CUSTODIAN has the child 40 percent of the time FOR 146 DAYS. Parent B THE SECONDARY CUSTODIAN is responsible for 75 percent of the primary child support need or \$300.00 (\$400.00 X 75 percent). Reduce that amount by 10 36 percent (40 percent of the time with child minus the 30 percent visitation threshold 146 DAYS MINUS THE 110 DAY VISITATION THRESHOLD) to arrive at the ~~parent's~~ SECONDARY CUSTODIAN'S adjusted share of the primary child support need in the amount of ~~\$270.00~~ \$192.00. The ~~parent's~~ SECONDARY CUSTODIAN'S proportionate share of supplemental support needs should then be added to this sum.

Subsection (5)(b) remains as proposed but is renumbered (5)(c).

(d) IN NO CASE MAY THE ADJUSTMENT MADE UNDER THIS RULE RESULT IN LOWERING THE NET RESOURCES OF EITHER PARENTAL HOUSEHOLD BELOW THE AMOUNT WHICH CORRESPONDS TO THE FEDERAL POVERTY INDEX FOR A HOUSEHOLD OF THAT SIZE.

AUTH: Sec. 40-5-202 MCA
 IMP: Sec. 40-5-209 MCA

[RULE XVI] 46.30.1542 CREDIT FOR BENEFITS Subsections (1) through (1)(a) remain as proposed.

(b) the parent's obligation is satisfied if the amount of the child's benefit for a given month is equal to or greater than the parent's child support obligation. Any benefit received by the child for a given month in excess of the child support obligation is not treated as an arrearage payment or as future support; and

(c) the parent must pay the difference if the amount of the child's benefit for a given month is less than the parent's child support obligation; AND

(d) WHENEVER A CUSTODIAL PARENT RECEIVES FOR THE BENEFIT OF THE CHILD, A LUMP SUM PAYMENT WHICH REPRESENTS AN ACCUMULATION OF MONTHLY BENEFITS:

(i) THE LUMP SUM PAYMENT SHOULD NOT BE TREATED AS INCOME OF THE PARENT;

(ii) THE LUMP SUM SHOULD BE CREDITED TO THE CHILD SUPPORT OBLIGATION FOR EACH MONTH A PAYMENT ACCUMULATED FOR THE CHILD'S BENEFIT; AND

(iii) THE PARENT ON WHOSE EARNING RECORD THE BENEFITS ARE BASED WILL NOT RECEIVE CREDIT AGAINST THAT PARENT'S CHILD SUPPORT OBLIGATION UNLESS THE COURT OR ADMINISTRATIVE SUPPORT ORDER PERMITS SUCH CREDIT.

AUTH: Sec. 40-5-202 MCA
 IMP: Sec. 40-5-209 MCA

46.30.1543 EXCLUSION FROM GUIDELINE ADDITIONAL GROUNDS FOR VARIANCE Subsections (1) through (1)(c) remain as proposed.

(~~f~~d) specific findings of fact under MCA ~~sections 40-5-204(2) 40-4-204(2)~~ (3) or 40-6-116(~~5~~) (6), MCA, which shows that application of the guideline is inequitable;

(~~g~~) ~~shared physical custody of one or more children; and~~

(~~h~~e) periods of extended visitation of 30 or more consecutive days, EXCEPT FOR INTERVENING VISITATION BY THE OTHER PARENT, AND considering child related fixed costs of custodial parent;

Subsections (1)(f) through (1)(k) remain as proposed.

(l) long distance visitation cost; and

(m) earnings of a child if it amounts to a large sum of money; AND

(n) THE STANDARD OF LIVING OF A PARENT, BOTH PARENTS, OR PARENTS AND CHILD IS LOWER OR HIGHER THAN THE STANDARD OF LIVING WHICH MAY BE EXPECTED AT THE PARENT'S INCOME LEVEL AND UNDER THESE GUIDELINES.

AUTH: Sec. 40-5-202 MCA
 IMP: Sec. 40-5-209 MCA

5. The Department has thoroughly considered all commentary received:

Overall Comments

COMMENT: Several commentors considered these new guidelines too complex. They suggested that the guidelines be written so that non-attorneys could easily read and understand them. They suggested that parents should be able to apply them without the help of legal counsel. Conversely, several commentors requested greater detail in one or more of the guidelines' provisions. One commentor expressed a concern over the number of major changes. He stated that he could understand refinements, clarifications, and minor changes, but he did not perceive any problems or major difficulties with the old guidelines. He could not understand the reasons for the changes.

RESPONSE: The guidelines contain more detail than the old guidelines (ARM 46.30.1501 et seq., 9/30/90), but overall they are not more complex. The additional detail is necessary to correct weaknesses and inequities inherent in the old guidelines. The Department of Social and Rehabilitation Services, Child Support Enforcement Division (CSED) performs a large number of guidelines computations in the course of its duties. In the first quarter of 1992, for example, the CSED established 410 support orders using the old guidelines. In the course of its duties, the CSED has become aware of certain shortcomings with the old guidelines. For example, they did not take into consideration the possibility that:

- both parents might not be self-supporting;
- there might be extreme differences in income;
- the parents income might not be sufficient to allow them to maintain themselves above the poverty level;
- one parent might remarry (or in paternity cases, might already be married); or,
- either parent might have or go on to have other children.

Although they were perceived as being easy to use, the old guidelines could not be applied fairly in a significant number of cases. According to a recent study, at least half of all divorces involve at least one partner with a previous marriage, who has pre-existing children. In paternity cases, one or both parents may be married to someone else. They may have other children by one or more other partners. An estimated 75% of divorced parents remarry and go on to have additional children. The old guidelines did not address any of these considerations. Consequently, it was necessary to add considerably more detail to make the new guidelines apply more fairly in a greater number of situations.

The additional detail also makes the new guidelines more equitable. For example: John and Mary seek a divorce. Mary gets custody of the two children. Two children from another

relationship with Marcia reside with John after the divorce. Those children were born before Mary and John's children. There is no support order requiring Marcia to support her children with John.

Under the old guidelines, at ARM 46.30.1531(1)(a)(ii), before determining a support order for Mary's children, it was necessary to calculate a dummy support obligation for Marcia's children. John's share of the dummy support amount was then deducted from his income. The problem occurred if Marcia was uncooperative, or if her location was unknown. With no knowledge of Marcia's income, the old guidelines could not have been applied, and the dummy support amount could not have been determined. This, in turn, prevented a determination of support for Mary's children using the old guidelines. When this occurred, the courts, the parties and their attorneys ignored Marcia's children when they set a support amount for Mary's children. This practice was clearly inequitable.

Ignoring Marcia's children, if John's income was \$1,200 per month and Mary's was \$800, John would pay Mary \$325.00 per month for the support of their 2 children. Thus, Mary's income plus \$325 child support would have put Mary's household at 121% of the federal poverty index level. Meanwhile, John's income minus his \$325.00 child support payments to Mary would have put his household at only 94% of the federal poverty index level.

The same thing would have happened if John's two children by Marcia had been born after Mary's children. The old guidelines simply ignored later born children as if they did not exist.

The detail added to the new guidelines makes dealing with John's case much easier and more equitable. Under the new guidelines, John's household includes Marcia's children, whether prior born or later born. There is no need to get Marcia's financial information to calculate a dummy support amount. Under the new guidelines, Mary's household is at 115% of poverty and John's rises to 100%. John can now support himself and Marcia's children. He was unable to do so under the old guidelines.

With the added detail, the new guidelines apply to a wider range of cases with more equitable results. The new guidelines recognize and address the complexities of modern domestic law.

The CSED recognizes that the new guidelines, with their added detail, may look intimidating to lay users. However, once the guidelines become final, the CSED intends to publish a booklet in simple language which explains and describes the method of computing a support amount in accordance with the new guidelines. The booklet will contain comments, examples and instructions whenever appropriate. Upon publication of the booklet, the CSED is confident that lay persons will be able to use and apply the guidelines easily and without the need for legal counsel.

COMMENT: Two commentators did not think that the Melson model was suitable to Montana's financial needs or demographics. They pointed out that Melson is from Delaware, a state that they believed to be different in nearly all ways from Montana.

RESPONSE: The CSED considered the difference between Montana and Delaware in devising the new guidelines, and adjusted for those differences. For example: in Delaware the primary child support need is 40% for one child, 30% for the second and third children and 20% for each additional child. The Montana version adjusted those figures to 30%, 20% and 10% respectively.

Another example of adjustment to the Melson model is in the SOLA figures. Delaware's SOLA is 18% for 1 child, 27% for 2 children, 35% for 3, 40% for 4, 45% for 5 and 50% for 6 or more children. Montana adjusted these figures to 14%, 21%, 27% and 4% for each additional child up to 50%.

The adjustments are not arbitrary or without reason. Robert G. Williams, PhD, of Policy Studies Inc., conducted a review of the Delaware guidelines in 1989. He found them to be an accurate reflection of that state's cost of living needs. Dr. Williams' study relied in part on the Cost of Living Index produced by the American Chamber of Commerce Researchers Association. Using that index, the CSED adjusted the new guidelines by comparing Delaware with Montana. The CSED is confident that the new guidelines accurately reflect Montana's cost of living.

COMMENT: One commentator referred to a recent article on guidelines. According to that article, twenty-two states use guidelines based on the Percentage of Income model and 20 states use the Income Shares model. Only three states use the Melson model. The commentator questioned Montana's choice of the Melson model, since only three states have chosen it.

RESPONSE: The CSED developed its first child support guidelines in 1979. Those early guidelines were extremely simple and followed the percentage of income model. Since 1979, the CSED has applied guidelines to several thousand cases. The CSED's experience in developing and applying guidelines has given it an excellent understanding of the advantages and disadvantages of each model.

The CSED assisted in the development of the guidelines adopted by the Montana Supreme Court on January 13, 1987. They were the result of studies undertaken by the Montana Child Support Advisory Council. The CSED was appointed as a member of that Council by Governor Ted Schwinden. In its deliberations, the Council examined the three most common guidelines models. First, it examined the percentage of income model. As noted by the commentator, that model is now used by 22 states. It sets support at a flat percentage of the non-custodial parent's income. For example: in Illinois the non-custodial parent will pay 20% of his or her income for one child, 25% for two

children, 32% for three, and 50% for six or more children. The custodial parent's income is not a factor. If the custodial parent's income is more than \$50,000 annually but the other parent's is only \$15,000, the support amount will still be 20% for one child. Because the many inequities inherent in the percentage of income model, the Council rejected it. The fact that 22 states now use that model does not mean it is equitable.

The Council also examined the Melson model. The Council found it to be the most equitable of the three models and almost recommended it. The Council rejected it because it seemed more complicated than the other two models.

The Council settled on the income shares model because it was more equitable than the percentage of income model but was not as complex as the Melson model. The percentage of income model's apparent ease of use was the deciding factor.

In 1985, when the Council submitted its report, all guidelines were comparatively new concepts. No state had used guidelines sufficiently long to understand their weaknesses or strengths. After applying the old guidelines in hundreds of cases, the CSED discovered significant weaknesses in the percentage of income model. The CSED made several unsuccessful attempts to correct those weaknesses through minor changes, refinements and clarifications. However, the old guidelines did not have enough design flexibility to achieve equitable results. The only model with enough flexibility was the Melson model. Flexibility is one of the strengths of the Melson model, and the reason why the CSED made the dramatic change from the income shares model. A discussion on the weaknesses of the old guidelines is contained in many of the following responses.

COMMENT: One commentor wanted the guidelines to include a provision for monitoring how the custodial parent spends child support money.

RESPONSE: Montana case law has long held that the custodial parent has sole discretion on how to use child support monies. See for example, Williams vs. Budke, 186 Mont. 71, 606 P.2d 515, 37 St. Rptr. 228, (1980). The CSED has no power to change the body of law through the rulemaking process. If a possible abuse of discretion by the custodial parent concerns the commentor, a remedy exists in the district courts.

COMMENT: The guidelines allow for visitation, extended visitation and several possible variances based on visitation. One commentor suggested that the guidelines should also include some means for monitoring visitation.

RESPONSE: The CSED agrees that visitation problems occur in a significant number of cases. Studies show that custodial parents' interference with visitation is a major reason why non-custodial parents stop paying child support. However, it is

beyond the CSED's rulemaking authority to address visitation problems as part of these guidelines. If the commentor is concerned about a possible abuse of visitation rights, a remedy exists in the district courts.

COMMENT: One commentor believed that guidelines have needlessly complicated child support cases. Because of guidelines, parties can no longer freely negotiate and agree on an amount for child support. Instead, the state forces them to abide by guidelines with which they may not agree.

The commentor believed that many attorneys are reluctant to accept support cases because they have become costly and complex under the guidelines. Non-mandatory guidelines served a useful purpose, but the commentor saw mandatory guidelines as nothing but an increase in bureaucratic red tape. The commentor believed that the CSED's role should be limited to enforcement of child support orders, not making inflexible guidelines.

RESPONSE: The CSED's experience does not confirm the commentor's remarks. When parties could freely negotiate and agree on support, the amount was often inadequate. Parents did not always have equal bargaining power. Highly emotional issues sometimes clouded their judgement. Further, parents and their attorneys consistently underestimated the needs of children. As a result, child support orders were often too low to meet the children's needs, even though the parents had the ability to pay adequate support.

Studies show that support orders were not only inadequate, they were not consistent among parents in similar situations. High income parents would often be ordered to pay the same child support amount as low income parents. Judges varied widely on how much support they awarded under the same case facts.

One reason for the increasing number of families on welfare is that some parents failed to pay adequate support for their children, even though they had the ability to do so. The parents' failure often was not intentional. Without guidelines, parents did not know how much support was necessary. In reaction to the problem, Congress, in 1984, required the states to adopt child support guidelines. At that time, use of the guidelines was not mandatory, but merely advisory. Unfortunately, parents, attorneys and courts did not universally use the guidelines. Inadequate support awards continued with little abatement. In response, Congress, in 1989, required mandatory use of guidelines in all child support cases.

Guidelines are not a cure-all, but they do ease the problems of the past, when child support could be set at the discretion of the parties and their attorneys. Not only are guidelines necessary to insure adequate support for children, they are now mandatory under 42 U.S. Code § 667 and 45 CFR § 302.56. If Montana does not apply the guidelines or justify exceptions in

all cases, the state can suffer federal sanctions. The sanctions would result in a loss of federal funding for public assistance.

COMMENT: Two commentators thought the guidelines contained a bias against fathers. However, they gave no specific reasons or examples which showed bias.

RESPONSE: The CSED does not find any bias in these guidelines against fathers, or against any other person. The guidelines are drafted to apply equally to mothers and fathers. They apply without consideration to whether the mother or the father is the custodial parent or primary custodian. They apply without consideration to whether the father or the mother is the person who must pay support. The CSED intends that these guidelines be used to determine a reasonable and adequate support obligation in all cases.

COMMENT: Two commentators suggested amending the guidelines to include provisions for what they call "transitional support orders." Their concern relates to situations in which the court orders the non-custodial parent to pay all marital debts in addition to child support. Payment of those marital debts may take a year or more. During this period, the commentators felt that the non-custodial parent should have a reduced child support order.

RESPONSE: The CSED recognizes that in many divorce cases the non-custodial parent is ordered to pay the debts of the marriage. No guidelines provision directly address this situation. The CSED, however, feels that subsection (1)(h) of ARM 46.30.1543 provides an adequate remedy. That subsection permits a variance based on the overall financial condition of a parent. If a non-custodial parent is concerned that combined child support and debt payments might be more than he or she can afford, the parent should request a variance from the guidelines based on overall financial condition.

COMMENT: One commentator believed that the new guidelines did not compare favorably to the old guidelines. The commentator suggested that the CSED graph support amounts determined under the old and new guidelines to see how they compare. The commentator also suggested that the CSED make comparisons between the new guidelines and the Washington state guidelines.

RESPONSE: As part of the development of the new guidelines, the CSED compared the old guidelines with the new. The comparisons were made at various income levels and numbers of children. At the suggestion of the commentator, the computations were graphed against each other and with computations from the Washington guidelines. The attached graphs are four examples of the graphs used in the development process. These graphs represent cases with one child under the age of 12 years, and various income levels for the non-custodial parent and incomes for the

custodial parent at the \$0, \$750, \$1050, and \$1500 monthly levels, respectively.

It is clear from the graphs that, in most instances, the Washington guidelines will result in higher support awards than either version of the Montana guidelines. It is also clear that when combined parental income is less than \$39,500 annually, Montana's old and new guidelines are very similar. The principal difference between the two is that the new guidelines appear as a straight line on the graphs, while the old guidelines have several jags. These are a result of the abrupt transitions between percentages on the old guidelines table. In some cases, depending on the combined net resources of the parents, a parent would have had a lower support obligation than another parent with slightly less income.

In comparing the old and new Montana guidelines, a major difference is apparent at the high income levels. Initially, it appears that the new guidelines will result in support orders which are much greater for high income parents than orders calculated under the old guidelines. However, this gap is not what it appears to be. The old guidelines table did not provide for combined parental incomes of more than \$39,500 annually. For these higher income levels ARM 46.30.1543(2) applied the 13.65 percent from the eighth column to the first \$39,500 to get a minimum support order. An additional amount taken out of that part of parental income which is more than \$39,500 was to be added to this minimum order. The court was to determine the amount of the supplement on a case-by-case basis. See, for example, In re the Marriage of Sacry, _____ Mont. _____, P.2d _____, 49 St.Rptr. 452 (1992). When plotting the attached graphs the amount of supplement under the old guidelines was unknown. The graphs, therefore, show only the minimum support order without the required supplements. After adding the supplement to the minimum order, the gap between the old and the new guidelines would shrink to an insignificant amount.

ARM 46.30.1507

COMMENT: One commentor expressed a concern about the rebuttable presumption of adequacy and reasonableness of a support amount determined in accordance with the guidelines. The concern was that the "clear and convincing" standard of proof needed to rebut the presumption would severely limit the possibility of a successful rebuttal.

RESPONSE: The CSED intends that the guidelines be applicable to a broad range of cases. However, under the circumstances of some cases, the support amounts determined under guidelines may not be equitable. Guidelines cannot be absolute. Parents, their attorneys and the courts must be able to adjust support amounts determined under the guidelines upward or downward to compensate for unusual circumstances. Recognizing this need, the Montana Legislature allowed the courts to choose not to

apply the guidelines in setting or modifying a support order. However, it set the standard at the "clear and convincing" level in MCA Section 40-4-204(3)(a). The CSED, as part of its guidelines review duties and under its rulemaking authority, has no power to change the standard of proof set by statute.

COMMENT: One commentor questioned the authority of section (1) to create a presumption that child support awards based on the guidelines are reasonable.

RESPONSE: This presumption is not new to these guidelines. The old guidelines and the earlier guidelines adopted by the Montana Supreme Court on January 13, 1987, also contained the presumption. No challenge to the CSED's authority to create the presumption by rule has ever been made. Indeed, the Montana Supreme Court appeared to adopt the presumption when it created its own guidelines. The CSED sees no strong legal reason for removing the presumption from the rule.

Further, removal of the presumption would jeopardize federal funding for Montana's welfare programs. As a condition for the receipt of federal funds for public assistance, the various states must have and use certain child support laws. Federal regulations have been promulgated specifying procedures and other requirements. The regulation at 45 CFR § 302.56 requires states to have child support guidelines which create rebuttable presumptions of the adequacy and reasonableness of support awards. If the rebuttable presumption was removed from the guidelines, federal sanctions would be imposed, resulting in cuts in federal funding for Montana public assistance programs.

COMMENT: One commentor did not like the part of section (3) which requires the reasons for any variance from the support amount determined under the guidelines to be set out in the support order, or the provision which requires the order to show the amount of support which would have been proper before the variance. The commentor thought that this requirement would create problems of increased litigation and costs.

RESPONSE: As a condition for the receipt of federal funds for public assistance, the states must adopt and use child support guidelines in all cases. If a state does not follow the federally mandated requirements, federal sanctions would be imposed, resulting in cuts in federal funding for public assistance programs. Federal regulators have left the development of guidelines up to the discretion of each state. However, since 1984, when Congress required states to have guidelines, federal regulators noted a tendency for courts to avoid guidelines results by creating variances. Federal regulators could not find facts or reasons to support the many variances made by the courts. Consequently, federal regulators amended 42 CFR § 302.56 to include the requirement that support orders state the grounds for any variance from the support amount determined under the guidelines and requiring the order

to state the amount determined under the guidelines before the variance. The amendment also required courts to consider the "best interest" of the child when making a support order which varies from the guidelines. These requirements are mandatory, unless Montana chooses to suffer a severe loss of federal funds. The CSED does not find any justification for deleting the federally required provisions from the guidelines.

COMMENT: One commentor pointed out that section (8) does not state the proper time for a reverter clause to take effect. As an example, the commentor referred to variances based on visitation of 30%. If a parent missed one day of visitation, the commentor wondered if the reverter clause would go into effect. If visitation drops to 29% instead of 30%, the commentor wondered if the reverter clause would then go into effect.

RESPONSE: The child support guidelines are designed to apply to the average case. However, because many cases are not average, the guidelines provide considerable latitude for variance from the amount of support determined under the guidelines. To avoid the need for frequent modifications and the costs attendant to each modification, section (8) suggests inclusion of a reverter clause in the support order which would go into effect whenever the purpose for a variance fails to occur. With a reverter clause, when the purpose for a variance ceases, the support order will automatically revert to the amount it would have been before the variance. The suggested language in section (8) is general and does not attempt to address particular circumstances.

The person drafting an automatic reverter clause should provide sufficient detail to allow the intent of the parties to be determined and carried out. For example, a reverter clause could provide that missing one day of visitation would be sufficient reason for the variance to terminate. The reverter clause could also provide that there must be a number of missed days before the variance terminated. The parties must tailor the language suggested in section (8) to their particular variance and fact circumstances.

[Rule II] ARM 46.30.1508

COMMENT: One commentor questioned the guidelines provision which does not permit a parent to deduct depreciation from gross income. The commentor gave the example of an independent taxi cab owner/driver who must purchase a new vehicle every five years to earn a living. The commentor argued that the parent ought to have the ability to deduct depreciation expenses in order to have the cash available to purchase a replacement vehicle.

RESPONSE: The CSED believes that, in most cases, non-cash deductions including depreciation are not a consideration when

determining income available for support. Those deductions reflect a paper image of income which does not accurately reflect a parent's actual cash flow. The CSED finds support in the Montana Supreme Court case of, In re the Marriage of Mitchell, 229 Mont. 242, 746 P.2d 598 (1987).

The CSED recognizes that, in certain cases, circumstances may exist where the general rule would not be equitable. The CSED, therefore, amended the rule to provide for an exception. Depreciation can now be deducted from gross income whenever the parent can show an "economic necessity" for the deduction.

COMMENT: One commentor raised a concern that the guidelines might base his child support obligation on the income of his new spouse. He felt this to be inequitable and contrary to law.

RESPONSE: The guidelines do not consider the income of any person other than the child's parents. The guidelines do not call for information concerning the amount of income received by any person other than a parent.

The commentor apparently misread the rule for determining a parent's self support reserve. [Rule VII] ARM 46.30.1521 does take into consideration the possibility that another person in the parent's household has income. The rule does not consider the amount of that income, only the fact that there is income. The rationale of the guidelines is that a parent should have sufficient resources to support his household. However, if any person in that household is sharing expenses, then the parent does not actually provide total household support. An adjustment to the self support reserve is appropriate to reflect this fact. In such circumstances, the parent should not receive a full self support reserve.

To address the commentor's concerns, the CSED added a new section (2) which states that the income of other persons is not a consideration in determining a parent's gross income. The CSED added similar clarification to [Rule VII] ARM 46.30.1521. See also the comments and responses following [Rule VII] ARM 46.30.1521.

COMMENT: Several commentors voiced concerns about including income from overtime or second jobs as part of gross income. They felt that it was unfair to second families. When a parent works overtime or has a second job so he or she can afford a second family, the parent's first family could use the increased income as grounds to modify the support order. When this occurs, the parent often is left without enough income for the second family.

RESPONSE: Under the old guidelines, when a first family sought modification of a support order, the second family's needs were not considered in determining a new support amount. Therefore, all of the parent's increased income was considered available

for support of the first family. This occurred because the old guidelines were based on a "first mortgage" approach. A parent was required to meet old obligations before undertaking new ones. Under this "first mortgage" approach, a parent must have income left over after taking care of his or her first family, before a second family could be started. If the parent did not have enough income left over, the parent was required to increase his or her income before taking on a new family. This is where the problem occurred. If the parent worked overtime or a second job to support a second family, the extra income was all available to the first family for modification purposes under the old guidelines.

This problem was addressed in the proposed new [Rule VI] ARM 46.30.1520. Section (3) did away with the "first mortgage" approach. Thus, when a first family sought modification of the support order, the second family's needs were taken in consideration in determining a new support amount. However, that consideration was limited to basic needs only. The parent may have worked overtime or had a second job to increase the second family's standard of living above the bare subsistence level. Any extra income left after meeting the subsistence needs of the second family was still available for possible modification of the first family's support order.

The CSED agrees with the commentators. If a parent is willing to work long hours to support a second family, the second family should have all the benefit of the parent's extra effort. Therefore, the CSED amended the rule to create a presumption. As amended, the guidelines presume that overtime and income from a second job is necessary for the second family. Consequently, that income is no longer included in gross income. In those cases where the first family can show that the extra income is discretionary, it can be included in gross income. In those cases, if the parent does not use the extra income to maintain the second family at a higher standard of living than the family would otherwise enjoy, the extra income is to be considered discretionary. Discretionary income from overtime or a second job is gross income under this rule.

COMMENT: One commentator described a case where a family adopted four special needs children. Those children received adoption subsidies totaling \$1,220 per month. The father argued that he should receive credit for one-half of the subsidies against his support obligation. The court included the subsidies as part of the mother's net available resources. The commentator noted that the guidelines, neither the old nor the new, suggested how to handle adoption subsidies. The commentator also recognized that this situation probably does not occur often enough to need inclusion in the guidelines. The commentator suggested that this issue be kept in mind for future clarification should it become more of a problem.

RESPONSE: The situation described by the commentor is, indeed, unusual. Should this situation occur under the new guidelines, the parties might consider seeking a variance under ARM 46.30.1543(1)(d). Meanwhile, the CSED will keep this matter in mind when conducting later reviews of the guidelines.

COMMENT: Two commentors wanted clarification of the rule on lump sum payments under subsection (1)(e). One wanted to know how to treat a gift, inheritance or cash payment where the parent squandered the entire principal. One commentor wanted to know why a lump sum cash payment such as a lottery payoff is not income.

RESPONSE: Parents can use lump sums, windfalls, gifts, and inheritances in several ways. One way is to squander the money. Another is to use it to pay old indebtedness. A third possibility is to use the money to set up a new business or to invest in income-producing assets. The parent may also hold on to the principal and do nothing with it.

Because of the many ways parents can use money or property, the CSED could not provide a more specific rule for application of the guidelines. The CSED believes the new rule is the most practical way to handle the issue. No matter when the parent receives money or property, if it is invested, the proceeds are considered income. The principal itself, if not income-producing, is an asset for which attribution of income is proper. If the money or property no longer exists because it was misspent or used to pay old indebtedness, then it is not considered in determining a support amount.

The CSED found several reasons for not treating lump sum payments as income. If the lump sum were to be treated as income in one year, it would greatly skew the child support order for subsequent years. A modification would be necessary to correct the skewed effect after the first year. If the guidelines were to average the lump sum over a number of years, the CSED would be required to set rules for determining the appropriate number of years. Some would argue persuasively for a short period. Others would argue equally well for a longer period. The CSED could not find a middle ground between the two possible poles. Because of this and similar problems, the CSED could not find sufficient justification to change the rule.

The CSED did find it necessary to add some clarification to the rule. The CSED added the phrase "actual but not imputed" to show that the rule only applied to interest actually received. The rule does not apply to imputed interest. To be consistent with [Rule III] ARM 46.30.1514, the CSED added the word "non-performing" to describe the property. If a parent inherited or purchased a business, or other income producing property, the property is not an asset under [Rule III] ARM 46.30.1514, but income, dividends or interest from the property is included in gross income under this rule.

ARM 46.30.1513

COMMENT: Two commentors referred to subsection (2)(d)(iii). They did not think it was fair to exclude parents who are obtaining education or retraining from the imputed income provisions. One of the commentors pointed out there is no guarantee that additional education or training would benefit children.

RESPONSE: The CSED finds a strong public policy reason to retain the provision excluding students from the imputed income provisions of the guidelines. Consider the example of a mill worker who is out of work because the mills are either closing or automating their production. Without retraining or further education, the displaced mill worker may never get another well-paying job. In the worst case, the mill worker might eventually become dependent on public assistance. A person who is disabled because of an accident may require occupational rehabilitation in order to return to the work force. The CSED believes it would be inequitable to impute income to persons who are engaged in a program of economic self-improvement.

The CSED recognizes that there can be no guarantee that education or retraining will benefit the parent's children. Some parents may seek to use this subsection as a means to avoid or reduce their child support obligation. Education or retraining for some parents may be superfluous or redundant. When situations such as these occur, variance from the guidelines would be proper.

ARM 46.30.1513(2)(e)

COMMENT: One commentor thought there may be an inconsistency between [Rule II(1)(d)] ARM 46.30.1508(1)(d) and this rule. According to [Rule II] ARM 46.30.1508, gross income does not include income from means-tested public assistance programs. By contrast, under this rule, gross income includes need-based scholarships and college grants. The commentor asked whether gross income also includes subsidized housing or subsidized child care, such as that provided by the JOBS program.

RESPONSE: The CSED finds strong public policy considerations against including public assistance funds as income. However, the rationale for this policy does not apply to student-parents. Public welfare recipients may be incapacitated or involuntarily unable to work for various reasons. On the other hand, student-parents usually are employable, but have voluntarily removed themselves from the work force to pursue their studies. Were it not for the time devoted to their schooling or training, student-parents usually would have the ability to support their children. Therefore, imputation of income to student-parents is appropriate.

However, this rule recognizes that it is in the children's best interest to complete their education or training. Consequently, the guidelines make an exception to the rule on imputing income to student-parents. The CSED did not find it proper to extend this exception to also exclude scholarship and grant funds from income, because student-parents with children in their households would need to support the children out of their scholarship and grant funds.

Subsection (2)(e) provides that income includes only "actual income" or other "money" available to the student-parent. The CSED believes that the rule adequately describes that income, so as not to include subsidized housing and subsidized day care which are not available to the student-parent as cash funds.

[Rule III] ARM 46.30.1514

COMMENT: Several commentors indicated their intent to computerize the new guidelines. One problem in writing computer software for determining support orders is the 10 year T-Bill rate used to determine income attributed to assets. The T-Bill rate can vary daily, requiring a manual update each day. Instead of the daily T-Bill rate, the commentors suggested the CSED adopt the average 10 year U.S. Treasury constant maturity rates for the previous calendar year. This way, the rate of interest assigned to assets would be constant over one full year, requiring fewer manual updates.

RESPONSE: The CSED finds the comments persuasive. The guidelines are amended accordingly.

COMMENT: One commentor thought it would be inequitable to attribute income to assets when a court order or property settlement agreement had previously divided property between the parents. The commentor believed that the rule penalizes parents for entering into property settlement agreements. For example, if a parent receives a larger share of property as an alternative to maintenance, when later determining child support, the guidelines assign a dollar value to the property. As a result, the parent may receive a smaller child support obligation, or pay a larger amount for support.

RESPONSE: The CSED finds the reasoning for attributing income to assets sound. A parent may have little cash, but considerable assets. The child would benefit if those assets were sold and the proceeds invested. Permitting a parent to keep and use assets without restriction would give the parent an economic advantage, to the financial detriment of the child. The CSED finds no good reason for changing the policy or the rule.

If the commentor is concerned that the distribution of marital property in a divorce would result in an inequitable support amount under the guidelines, he should apply for a variance under ARM 46.30.1543. Subsection (1)(a) of that rule provides

for a variance based on the equitable distribution of property. Subsection (1)(b) of that rule provides a similar variance for the tax consequences of property distribution. Subsection (1)(i) of that rule provides for the situation where the custodial parent and child have a continuing right to occupy the former family home.

COMMENT: One commentor suggested that the rule for attributed income should not apply to assets such as vacation homes and recreational vehicles. The commentor's reasoning was that the parent will probably share the use of the property with the child. According to the commentor, the rule discourages the possession of assets which may benefit the child.

RESPONSE: The CSED finds that there is no reason to believe that recreational property will necessarily benefit the child. Even if it does so, the benefit is short-term at best. Meanwhile, the child's need for food, shelter, clothing and education is ongoing and consistent.

[Rule IV] ARM 46.30.1515

COMMENT: One commentor expressed concern that the provision of this rule which requires parents to present profit and loss statements prepared by a CPA might be prohibitive for low income self-employed parents. The commentor suggested that parents have the option of preparing and submitting profit and loss statements themselves, if the statements were signed under oath as to the accuracy of the contents. In urging the CSED to amend this rule, the commentor pointed out that there are many small businesses in Montana. In many of those businesses, the books are managed on the kitchen table by the parent or the parent's spouse. Requiring marginally profitable businesses to use expensive CPA services would tend to discourage those businesses when public policy should be encouraging them. At the very least, the commentor suggests, the guidelines should provide for a licensed accountant to prepare the statements, rather than a CPA.

RESPONSE: The CSED finds the comment to have merit, and the rule is amended accordingly. Now, either an accountant or a CPA may prepare profit and loss statements. Also, parents and other persons such as the parent's spouse may prepare the profit and loss statements. When prepared by a parent or other person who is not a CPA or accountant, the accuracy of the statement must be certified under oath.

COMMENT: One commentor suggested inclusion of a clause which requires verification of non-cash benefits obtained by a parent.

RESPONSE: The CSED agrees with the suggestion, and the rule is amended accordingly.

[Rule V] ARM 46.30.1516

COMMENT: One commentor expressed concern that the guidelines permit a parent to deduct retirement contributions from gross income only when they are mandatory. The guidelines do not permit similar deductions for voluntary retirement plans. The commentor argued that there should be no distinction between voluntary and mandatory plans. The commentor bases his contention on his perception that social security retirement benefits are inadequate. Therefore, public policy should encourage both voluntary and involuntary retirement plans.

RESPONSE: The CSED considered the comment, and found that public policy encourages parents to save for retirement. The self support provisions of these guidelines is to permit parents and their prior and subsequent families to maintain at least a basic standard of living. Without a basic need allowance, the parent, his other children and other family members could have become dependent on public assistance. The CSED felt that the same policy considerations would apply to the concern raised by the commentor.

The CSED amended the rule to allow deductions for voluntary as well as mandatory retirement contributions. However, the CSED did not want parents to use the amended rule to avoid or reduce their child support obligations by making large contributions towards retirement plans. To lessen this concern, the CSED put a cap of 6.5% on the amount of retirement contribution. This cap is the amount permitted under the state employees retirement plan.

In discussing this issue, the CSED found that the guidelines did not provide for cases in which a parent cashes out his or her retirement plan. Consequently, the CSED amended subsection (1)(a) of [Rule II] ARM 46.30.1508 to include pre-retirement distributions from retirement plans as part of gross income.

COMMENT: One commentor suggested clarifying subsection (5) of this rule by changing the syntax. The commentor thought this section could be made clearer by moving the phrase, "unless the parent cannot reasonably remove himself or herself from the unprofitable situation" to a different part of the sentence.

RESPONSE: The CSED agrees with the commentor and the section is amended accordingly.

COMMENT: One commentor suggested the rule be amended to permit the parent paying support to take the IRS tax exemption for the children.

RESPONSE: IRS and court-developed rules define when, and under what conditions, a parent may claim a tax exemption for dependents. The CSED does not have authority to change those rules. If the commentor is concerned that allocation of tax

exemptions may result in inequitable child support orders, [Rule XI(1)(j)] ARM 46.30.1534(1)(j) provides for a variance based on the allocation of dependent tax exemptions to the non-custodial parent.

COMMENT: One commentor suggested that the guidelines give a part of the IRS tax credit for child care services to the parent paying support.

RESPONSE: Under IRS regulations, only the parent with custody of the child can claim the child care credit. The CSED does not have authority to change those regulations. However, the guidelines indirectly permit a non-custodial parent to share the credit. In such cases, the parent pays only a prorated share of net child care expenses. Net child care expenses are defined in these guidelines as the actual costs minus the child care credit. For example: the parents have equal income. Day care expenses are \$100. Net child care expenses after the credit is \$75. Instead of paying \$50.00 for child care expenses, the noncustodial parent pays only \$37.50 to the custodial parent as reimbursement for day care. The difference between \$50 and \$37.50 is the parent's share of the tax credit.

[Rule VI] ARM 46.30.1520

COMMENT: One commentor suggested that the first sentence in section (3) did not adequately convey the CSED's intent. The commentor suggested breaking the sentence into two new sentences. The commentor suggested that the second sentence should expressly refer to subsections (a) and (b).

RESPONSE: The CSED agrees with the commentor and the rule is amended accordingly.

[Rule VII] ARM 46.30.1521

COMMENT: One commentor suggested adding an amendment to this rule which would create a presumption that a person who is sharing living quarters with a parent also shares the parent's household expenses.

RESPONSE: The CSED finds that there is sufficient reason to presume that a person sharing living quarters is also sharing expenses. Subsection (2)(b) of this rule assumes, without expressly stating so, that persons with income who reside with a parent are sharing household expenses. To clarify that this is in fact so, the CSED added a new section (2) specifically stating the presumption, and renumbered the original section (2) and subsequent sections.

The CSED did not find support for the commentor's suggestion that the presumption should apply to any person sharing living quarters, regardless of income. The CSED finds that such a

definition would be too inclusive and would result in inequities. For example, if the parent was providing in-home care for an invalid or destitute sister. It would not be fair to presume that the sister is paying a share of the household expenses. Therefore, the CSED limited the presumption to only those persons residing with the parent who have actual income.

COMMENT: One commentor disagreed with the rule establishing a self support reserve. In the commentor's view, the self support reserve places priority upon the subsistence requirements of the obligor parent, instead of on the subsistence needs of children. The commentor argued that adult parents are in a better position to insure their own subsistence needs, and children cannot and should not be required to assume this responsibility.

RESPONSE: The CSED finds that the self support reserve is necessary so that the obligor parent can maintain sufficient living circumstances and continued employment. In the CSED's experience, too much financial pressure on a parent can cause negative results. If, after paying a support obligation, sufficient resources are not available to maintain the obligor parent and his or her immediate household, the parent may become discouraged and discontinue employment. If a parent has left regular employment, the CSED's experience indicates that the parent's support obligation often becomes delinquent and difficult to collect.

Requiring a parent to pay a high support obligation when the parent cannot meet his or her own needs may have another negative effect. If child support payments reduce net income below the level required to maintain the parent and his immediate household, the parent may have to apply for public assistance benefits. If this occurs, the support obligation may fall delinquent and both the parent and the child could become dependent on public assistance. Guidelines should not cause any person or child to become dependant on such programs.

The CSED finds support for this rule in the Montana Supreme Court case of In re the Marriage of Callahan, 233 Mont. 465, 762 P.2d 205 (1988). The court directed the district courts, when determining a parent's ability to pay child support, to consider: "The parent's use of his funds to provide himself only with the bare necessities of life prior to providing support for his child."

[Rule VIII] ARM 46.30.1522

COMMENT: One commentor pointed out that the original guidelines tables contained a cost differential for teenage children. The cost differential permitted parents to meet the increased financial costs of maintaining teenage children. The new rule does not provide a similar cost differential, except as a variance under ARM 46.30.1543(1)(k). The commentor suggested adding a cost differential to the new rule.

RESPONSE: The new guidelines formula does take into consideration the higher costs of teenage children. However, instead of specifying a cost differential, the new formula averages those costs over the entire minority of the child. Although costs are averaged, the CSED recognizes that the needs of some high school age children may be greater than contemplated by either set of guidelines. The CSED, therefore, added subsection (1)(k) to ARM 46.30.1543, to allow a variance for children aged 16 and 17.

COMMENT: One commentor wondered whether this rule was in conflict with [Rule IX] ARM 46.30.1532. The commentor argued that if "primary child support" included medical needs, the parent would pay twice for the same medical needs under [Rule IX] ARM 46.30.1532.

RESPONSE: This rule defines "primary child support" as including food, shelter, clothing and medical needs. These are the basic needs required to maintain a child at the poverty level. At this basic level, medical costs would include only simple needs such as band-aids, cold remedies, aspirin, and so forth. A family at this level cannot afford, without health insurance, medical expenses which call for a doctor's intervention. That is why [Rule IX] ARM 46.30.1532 requires health insurance coverage whenever it is available. When coverage is not available, [Rule IX] ARM 46.30.1532 requires the non-custodial parent to pay a share of the doctor's bills.

The CSED did not intend this rule to include the same level of medical care provided for in [Rule IX] ARM 46.30.1532. To avoid any further confusion that the rules refer the same need, the CSED removed the word "medical" from the rule.

COMMENT: One commentor wondered whether the availability of Indian Health Services could substitute for the health insurance coverage provided for in this rule.

RESPONSE: The CSED finds that Indian Health Services, medicaid and other similar public programs are not a substitute for private health insurance. Public policy requires the primary support needs of children to be the responsibility of parents, not that of the taxpayers. Therefore, when they are financially able, parents should provide necessary health insurance coverage for their children.

ARM 46.30.1525

COMMENT: One commentor pointed out a possible error of omission in the proposed rule. The guidelines worksheet shows a provision for crediting the parent who pays the supplemental needs. However, the rule does not suggest that such a credit is possible. [Rule IX] ARM 46.30.1532 provides similar credit for the parent who pays insurance premiums. The worksheet lists a credit for insurance premiums together with lines for the

supplemental needs credit. It appears that the rule intended a credit which was somehow omitted.

RESPONSE: The commentor is correct. There was an error of omission. The CSED amended the rule accordingly.

[Rule IX] ARM 46.30.1532

COMMENT: This rule provides for dividing medical bills which are not covered by insurance between parents. One commentor pointed out that there is no procedure, except contempt, to enforce the apportionment order when the non-custodial parent fails to pay his or her share of the medical bill. When the non-custodial parent fails to properly pay, there is a risk that the bills will go unpaid. When bills go unpaid, the child may have to do without eyeglasses, dental work, sports physicals and other future medical needs.

RESPONSE: The CSED agrees that no remedy exists, except in district court, to enforce the apportionment order when one of the parents fails to pay. However, it is beyond the CSED's rulemaking authority and the purpose of these guidelines to create a new administrative remedy. Legislation might be necessary.

COMMENT: One commentor described a problem which can occur when low income parents must pay health insurance premiums in addition to child support. The commentor gave the example of a non-custodial parent with a support order of \$300 per month. That parent was also ordered to provide insurance. The insurance premium was \$160 per month. The parent had a net monthly income of \$850. The custodial parent's net income was nearly double that of the non-custodial parent. The commentor believed that the combined child support and health insurance obligations unfairly and unnecessarily burdened the low income parent. Another commentor suggested that parents share the cost of insurance premiums in proportion to their incomes.

RESPONSE: Under this rule, one parent does not bear the entire burden of health insurance costs. Premiums are, in effect, prorated between the parents. Although the facts given in the first commentor's example are sketchy, the custodial parent would pay the largest share of the \$160 premium because that parent has the largest income. The rule provides that the parent who actually pays the premium is to have a credit for the amount of the payment against the primary child support need.

With reference to the first commentor's example, the non-custodial parent has income of \$850. The custodial parent's income is nearly double. Assume that it is \$1,600. If so, the non-custodial parent's share of the \$160 health insurance premium is \$56.00. This parent's total obligation is \$356 (\$300 child support plus \$56 premium). The non-custodial parent then receives a credit for the \$160 premium. After deducting the

credit, this parent pays \$196 to the non-custodial parent, instead of \$300.

[Rule XI] ARM 46.30.1534

COMMENT: One commentor suggested amendment of this rule to include a definition for "standard of living" as it relates to SOLA.

RESPONSE: The purpose of SOLA is to maintain a child at the standard of living which the child would enjoy if the child were living with the parents in an intact household. However, as pointed out by the commentor, the term "standard of living" is not defined in the guidelines. To add clarity, and to avoid any possibility of ambiguity, the CSED adopted the commentor's suggestion. Rather than amend this rule, the CSED added the definition to [Rule I] ARM 46.30.1502, the general definitions rule.

COMMENT: Several commentors argued that SOLA would result in child support orders that were too high. They believed that SOLA would result in increased litigation.

RESPONSE: The old guidelines table did not go beyond combined parental income levels of \$39,500. For larger incomes, old ARM 40.30.1543(2) provided that a minimum support order is calculated at the \$39,500 percentage. The minimum support order was then to be supplemented out of any parental income higher than \$39,500. The amount of the supplement was to be determined by the court on a case by case basis. See, for example, In re the Marriage of Sacry, _____ Mont. _____, _____ P.2d _____, 40 St. Rep. 452 (1992).

Because of the old guidelines limitations, every case with income more than \$39,500 was a potential case for litigation. On the other hand, the new guidelines make provisions for high income situations. Therefore, the CSED does not agree that the new guidelines will increase litigation over the litigation necessary under the old guidelines.

The CSED finds that the addition of SOLA does not result in support orders which are too high. Under the old guidelines, a parent with combined annual income at, but not more than, \$39,500 paid monthly child support of \$447 for one child under the age of 12, and \$553 per month for a child 12 and older. Under the new guidelines, the same parent pays \$526 no matter the age of the child. After averaging the age adjustments, there is only a \$26 monthly difference between the new guidelines and the old guidelines. Under the Washington state guidelines, the same parent would pay from \$701 to \$866 per month.

The CSED cannot determine if the differences between the old and new guidelines will continue to be insignificant at combined

annual income levels greater than \$39,500. This is because it was necessary to determine high income cases on a case by case basis under the old guidelines. However, the Washington guidelines set child support for incomes of \$84,000 at \$1314 to \$1624 per month. By contrast, under the Montana SOLA provisions, child support would be \$1045 per month.

A recent article in the Family Law Quarterly¹ noted the same concerns in Illinois as those expressed by the commentators. Guidelines in that state apply a flat percentage to the non-custodial parent's income. For one child, the amount is 20 percent. Thus, in Illinois, a parent with \$84,000 annual income would pay \$1,400 per month. In addressing concerns similar to those raised by the commentators, the article replies:

Although many Illinois attorneys thought the guidelines produced a "windfall" for custodial mothers in upper-income families, we found no significant difference in pre- and post guidelines awards in these families.

The article concluded that high income families, because of their resources, had greater opportunity for bargaining and asset trading both before and after guidelines. The only major impact noted on high income families was that guidelines reduced case processing time. The CSED finds that Montana is not likely to be different from Illinois in this respect.

COMMENT: Two commentators argued that SOLA was not fair to fathers. They believed that fathers should not have to pay any more than needed to support a child at the basic needs level.

RESPONSE: The CSED finds no merit in the commentators arguments. A child's basic need under the guidelines is equivalent to living at the poverty level. Without SOLA, a child may never live above the bare subsistence level, even though the non-custodial parent can afford to pay more support. If the custodial parent has enough income to raise the child's standard of living above the poverty level, the burden of support rests primarily on the custodial parent instead of on both parents. This is unfair to the child and to the custodial parent.

In an intact family, a child benefits from the income of both parents. The parents do not limit their children to a subsistence level standard of living. The CSED finds no reason why this practice should be different merely because the parents divorce. The CSED finds support in MCA Section 40-4-204(2)(c). That section shows legislative intent to maintain children, where possible, at the pre-divorce standard of living.

¹Family Law Quarterly, Vol, XXV #3, Fall, 1991, Impact of Child Support Guidelines on Award Adequacy, Award Variability and Case Processing Efficiency.

[Rule XII] ARM 46.30.1535

COMMENT: Two commentators took exception to that part of section (2) which uses the phrase "in the usual case of sole custody." They felt that the phrase was contrary to the statutory preference for joint custody.

RESPONSE: MCA Section 40-4-222 creates a preference for joint custody. That section, however, does not distinguish between joint legal custody and joint physical custody. In the thousands of decrees with which the CSED has had experience, the bulk of the joint custody cases are joint legal custody where one parent has primary residential care of the children with the other parent having normal visitation. For purposes of the guidelines, the most common joint custody case is the same as sole custody. When joint legal custody is combined with sole physical custody, they are the "usual" case referred to in section (2).

Because the term "joint custody" can be misleading, the guidelines call cases in which there is a true sharing of physical custody "shared physical custody." However, the CSED deleted the term "usual" cases, and amended section (2) to include both sole custody and joint legal custody cases in which one parent has primary physical custody.

COMMENT: One commentator believed that the extended visitation/shared physical custody provision in subsection (5)(a) did not consider fathers who maintain a room for their children. He suggested an amendment to the rule based on what he called the "Espenshade Factor." This factor gives a financial adjustment to the father for shared physical custody of the child. The commentator offered the following formula:

MONTANA JOINT PHYSICAL CUSTODY
COMPUTATION FORMULA

EF = Espenshade Factor) = 1.35

GA = Gross Amount = $N \times EF$

N = Need

PC = Payor Contribution

PP = Payor's %

PS = Payor's Share

RC = Receiver's Contribution

RP = Receiver's %

RS = Receiver's Share

TG = Time Child is Gone

| FORMULAE:

|

| GA X PP X TG = PC |

| GA X RP X TG = RC |

| PC - RC = SUPPORT AWARD |

RESPONSE: Colorado, Washington and Idaho guidelines all include provisions for shared custody adjustments similar to the formula submitted by the commentor. Those provisions all calculate a hypothetical amount of support for the time the children are with one parent and a second hypothetical amount for the time they are with the other parent. The difference between the two hypothetical amounts is the amount payable by one parent to the other for child support.

According to Thomas Espenshade², overall costs of raising children increase by 35 percent in shared physical custody cases. Colorado and Washington adjust for the Espenshade factor by adding a shared custody premium to the amount determined under the guidelines for sole custody. Those guidelines then apportioned support between the parents based on the amount of time each parent has the child. Subtracting the lesser portion from the greater gives the amount of the adjusted support order.

At first glance, the "apportionment and offset" formula proposed by the commentor and used in Colorado and Washington, appears to be fair and reasonable. However, a closer examination does not support the initial impression. In most cases, application of the formula would have a disproportionately negative effect on the primary custodian's household.

²Thomas J. Espenshade, Investing in Children: New Estimates of Parental Expenditures, Urban Institute Press, Washington, 1984.

For example: the primary custodian earns \$800 net per month and the non-primary custodian's monthly earnings are \$1200. There is one child. Under the new guidelines, in a sole custody case, the secondary custodian pays \$176 for child support. After receiving support payments, the child and primary custodian are living at 132 percent of the federal poverty index level. The secondary custodian's standard of living is at 185 percent of the federal poverty index level.

Now assume that the same parties share physical custody, and the secondary custodian has the child 40 percent of the time. After calculating the apportionment and offset formula, the secondary custodian pays \$72 for support. This drastically reduces the standard of living of the child and primary custodian to 117 percent of the federal poverty index level. At the same time, the secondary custodian's standard of living increases to 204 percent of the federal poverty index level.

Just because the secondary custodian has the child for 36 days per year more than the normal 110 day visitation period, child support is reduced 41 percent, from \$176 to \$72. When a child spends more time in the other home, the primary custodian can expect some costs savings, especially for food. However, most of the primary custodian's expenses continue at the same level as when the child is in the home. Consequently, a 41 percent reduction of the child support is out of proportion to the cost savings which the primary household can expect.

The "apportionment and offset" formula gives a credit to the secondary custodian. The practical effect of this credit is to substantially reduce the standard of living in the primary custodian's household. The primary reason is that the secondary custodian gets a credit for every minute spent with the child. This credit includes 110 normal visitation days for which a parent in sole custody cases gets no credit. Thus, by having the child for even a short period over the threshold of 30 percent (110 days) normal visitation, the secondary parent gets relief from paying support and also receives offsetting support from the primary custodian. The formula puts the burden of shared physical custody almost entirely on the primary custodian.

The CSED understands that some accommodation is proper for shared physical custody cases. To this end, the proposed new guidelines contained a "percentage reduction" method for adjusting support in shared physical custody cases. The CSED finds that the proposed method did not result in enough of an adjustment. The "apportionment and offset" formula, as proposed by the commentor, is too much of an adjustment. To provide a middle ground between the two, the CSED developed a compromise approach using the "percentage reduction" method but creating significantly more relief for the secondary custodian than did the original method. The compromise approach has a far less

harsh impact on the primary custodial household than would the "apportionment and offset" method.

The compromise approach gives a 1 percent reduction in the support level for each additional day over the 30 percent visitation threshold. For example, the parent who cares for the child 40% of the time provides 146 days per year of care, or 36 days above the 30 percent/110 day threshold. Those 36 additional days will result in a 36 percent reduction of the support amount. Under the earlier example, the non-primary custodian pays \$176 when there is normal visitation. Under the amended "apportionment and offset" formula the support payment changes to \$72. By contrast, under the compromise approach the payment is \$112.64. This is a less harsh reduction in the standard of living from 132 percent of the federal poverty index level to 123 percent. These results are better than the "apportionment and offset" formula's 117 percent of the federal poverty index level.

In analyzing the "apportionment and offset" formula and in developing the compromise method, the CSED became aware of another problem. It is to children's advantage to encourage shared physical custody. However, in low income cases, a shared physical custody adjustment may have the negative effect of lowering the child's standard of living below the poverty level, due to the higher costs of shared physical custody. The child may then become dependent on AFDC and other public assistance programs. This effect puts into conflict two strong public policies; one which encourages shared physical custody, and the other which discourages families from becoming dependent on public assistance. Therefore, in developing the compromise method, the CSED put a cap on the percentage reduction method. A reduction is allowed in shared physical custody cases only when it does not have the effect of reducing the child's standard of living below the federal poverty index level.

COMMENT: One commentator noted that he shared physical custody of his two children on a 50/50 basis. The commentator did not believe that the 20% credit given under section (4) was an adequate adjustment to the support amount.

RESPONSE: In response to the preceding comment, the CSED amended this section. As amended, the commentator will have a 72% credit compared to 20% under the proposed new rule.

COMMENT: One commentator suggested that the guidelines should consider the number of dinner meals a parent provides to determine when shared physical custody occurs. That is, the commentator suggested that a parent who provides a majority of a child's dinner meals should get a credit for the majority of shared physical custody.

RESPONSE: The CSED finds that this suggestion raised more questions than it answered. For example, what would happen when

one parent was expected to provide the dinner meal, but instead the other parent provided the meal? What would happen if the children ate at a friends home? Further, a credit based on meals could lead some parents to manipulate visitation schedules around meal times. Enforcement would be difficult. Each parent would need to keep logs as to which parent provided which meal on each day. The CSED, therefore, declines to amend the rule in accordance with the suggestion.

COMMENT: Two commentators asked questions about how to define a "day" for purposes of the guidelines. It is necessary to determine how many days the child is in the physical custody of each parent in order to apply the 30 percent threshold in section (5). One of the commentators used an example to illustrate a problem with the present wording. If the non-custodial parent picked the child up for visitation on Friday evening and returned the child on Sunday evening. The parent had physical control of the child for a 48 hour period. However, if the rule defines a "day" as a full day and night the parent would get credit for only one day of visitation.

RESPONSE: The CSED agrees with the commentators that the word "day" needs further definition. The CSED amended the rule to provide such a definition. When determining shared physical custody, a day is defined as being when a parent has physical control of a child for the most of a 24 hour calendar day. In the example given by the commentator, the parent would receive credit for both Saturday and Sunday but not for Friday. The parent only had the child for a small part of that day.

[Rule XIII] ARM 46.30.1538

COMMENT: One commentator objected to subsection (1)(a) which permits the court or hearing officer to set a zero support order for very low income parents. The commentator claimed that all parents should pay support. As an example, the commentator referred to the Colorado guidelines which set a \$50 minimum support order in all cases.

RESPONSE: The old guidelines contained a provision suggesting a \$50 minimum support order. The problem was that the district courts would not uphold this provision. The CSED experienced several cases statewide in which the \$50 minimum support order was reversed by the court. In one case, the obligor parent had monthly income of only \$350. The parent resided in a rural area with no other employment available, so that imputation of additional income was not appropriate. The district court held that it would be unjust to require the parent to pay child support of \$50 per month out of a \$350 monthly income. Under the new guidelines this parent would pay a more reasonable \$14 instead of \$50. A zero payment is proper only when the parent's monthly income falls below \$184. The CSED agrees with the district courts. Requiring a person with income of less than \$184 to pay \$50 for support is not just or reasonable.

[Rule XIV]

COMMENT: Several commentators praised the intent of this rule, but found that it was unworkable. They pointed out that there are many ways to vary from the guidelines. Some of the variances are child specific, such a long distance visitation. There are also several supplements to the basic child support need which are also child specific. In cases in which the parents have more than one child, the variances and supplements may apply to one or more but not to all the children. For example, one child may need extra medical and day care. A second child needs special education. A third child needs day care and special shoes. A variance for long distance visitation applies to two of the three children. Another variance for extended visitation applies to two children but not the same two as the visitation variation. There are many possible combinations of supplemental support and variances which may apply. Any of the variances may cease before the child emancipates. One of the children may die or emancipate early, which would end the variance or supplement. To follow the rule, the court would need to fashion a support order for each child and for each possible combination of children, supplements and variances. The commentators believed this to be an unreasonable requirement.

RESPONSE: After considerable deliberation and experimentation with various options, the CSED came to the same conclusion as did the commentators. Consequently, the entire rule has been removed from the guidelines.

[Rule XVI] ARM 46.30.1542

COMMENT: One commentator pointed out that this rule does not address lump sum payments of social security benefits. After making application for benefits, it may take eighteen months or longer for the parent to receive those benefits. The commentator urged that the guidelines should treat lump sum payments as payment of arrearages by the parent. According to the commentator, to do otherwise would have the effect of making the parent contribute more child support than would be required under the support order.

RESPONSE: The CSED agrees that the rule should have provisions for lump sum payments, to alert parents and their attorneys to consider lump sum problems. When there is a possibility of a lump sum payment from social security, the order would have to address the lump sum before credit would be proper. Under the case of In re the Marriage of Durbin, _____ Mont. _____, 823 P.2d 243, 48 St. Rep. 1142 (1991), credit for social security benefits paid to the child as a result of the parent's disability is not automatic. Credit can only be given as part of the establishment or modification of a support order and then credit can only be prospective. The CSED amended the rule accordingly.

ARM 46.30.1543

COMMENT: One commentor suggested it would be helpful to have more specific directions in this rule on how to estimate or calculate the value of the several listed variances. The commentor suggested that lack of specificity would have the effect of giving too much discretion to attorneys, judges and hearing officers in setting support amounts.

RESPONSE: The CSED has tried for several years to develop internal guides and policies for use by its own caseworkers in handling special circumstances. Because of the almost infinite number of possibilities associated with each variance, the CSED has been unable to develop any practical guide. Should the CSED successfully develop a useful and practical guide, or should others suggest such a guide, the CSED will consider incorporating it as part of future guidelines.

COMMENT: One of the purposes of guidelines is to maintain a child's standard of living at a level commensurate with the parents' income. Nevertheless, one commentor gave the example of a family which, before the divorce, had lived a frugal lifestyle well below the level expected from parental income. The family expected that same frugal lifestyle would continue after the divorce, as was the norm for that particular family. The commentor argued that if the parents were ordered to pay the amount of support determined under the guidelines, the result would have been a more luxurious lifestyle for the child than had been the normal before the divorce.

Another commentor took a different approach. The commentor gave the example of a family which maintained a pre-divorce standard of living for the child higher than would have been expected from parental income. Restricting that child to the amount of support determined under the guidelines would have resulted in depriving the child of the lifestyle which had been normal before the divorce.

RESPONSE: The CSED recognizes that lifestyles are not always dependent upon income levels. Therefore, the CSED amended this rule to allow variances which would take lifestyles into consideration.

COMMENT: Subsection (1)(e) required consideration of the fixed costs only of the custodial parent. Two commentors felt this provision could undermine any possibility of frequent contact between the child and both parents. By ignoring the non-custodial parent's visitation expenses, frequent and continuing contact with that parent may have been inhibited. The commentors suggested that the guidelines should encourage visitation and shared physical custody.

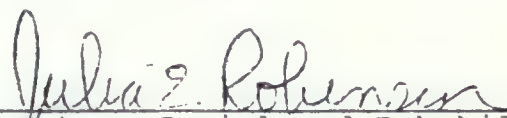
RESPONSE: The CSED agrees that fixed costs are not solely the concern of the custodial parent. The non-custodial parent may

also incur fixed costs related to visitation. To lessen any distinction between fixed costs of a custodial parent versus those of the non-custodial parent, the CSED omitted the reference to the custodial parent. Child related fixed costs, wherever they occur, are now a proper consideration for both parents.

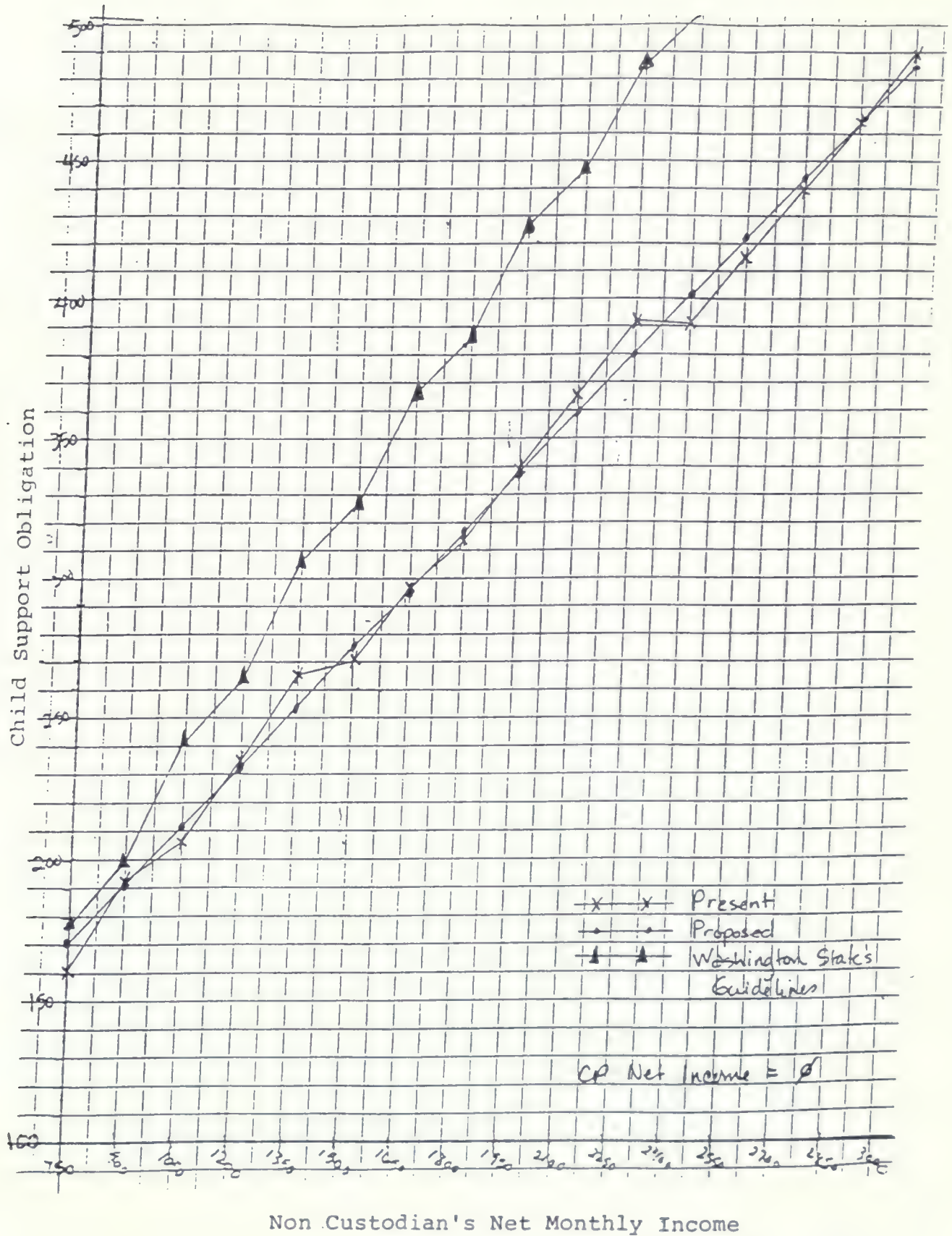
COMMENT: One parent objected to that part of subsection (1)(a) which refers to "30 or more consecutive days." The commentor pointed out that it is rare for one parent to have a child 30 consecutive days without the other parent having visitation rights. Therefore, this provision had minimal application.

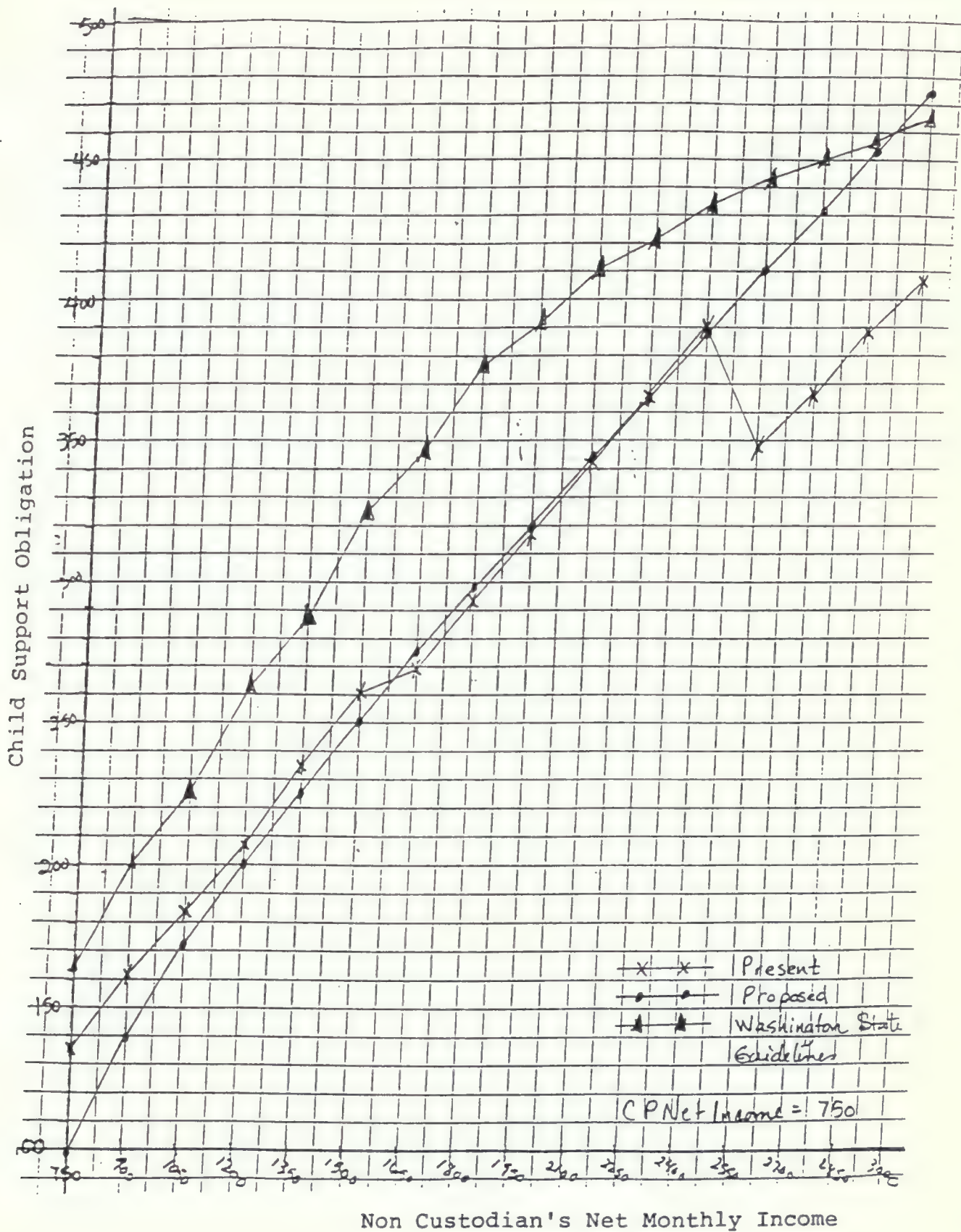
RESPONSE: The CSED agrees with the commentor's analysis. The CSED amended the subsection to provide for visitation by the other parent in determining the 30 day period.

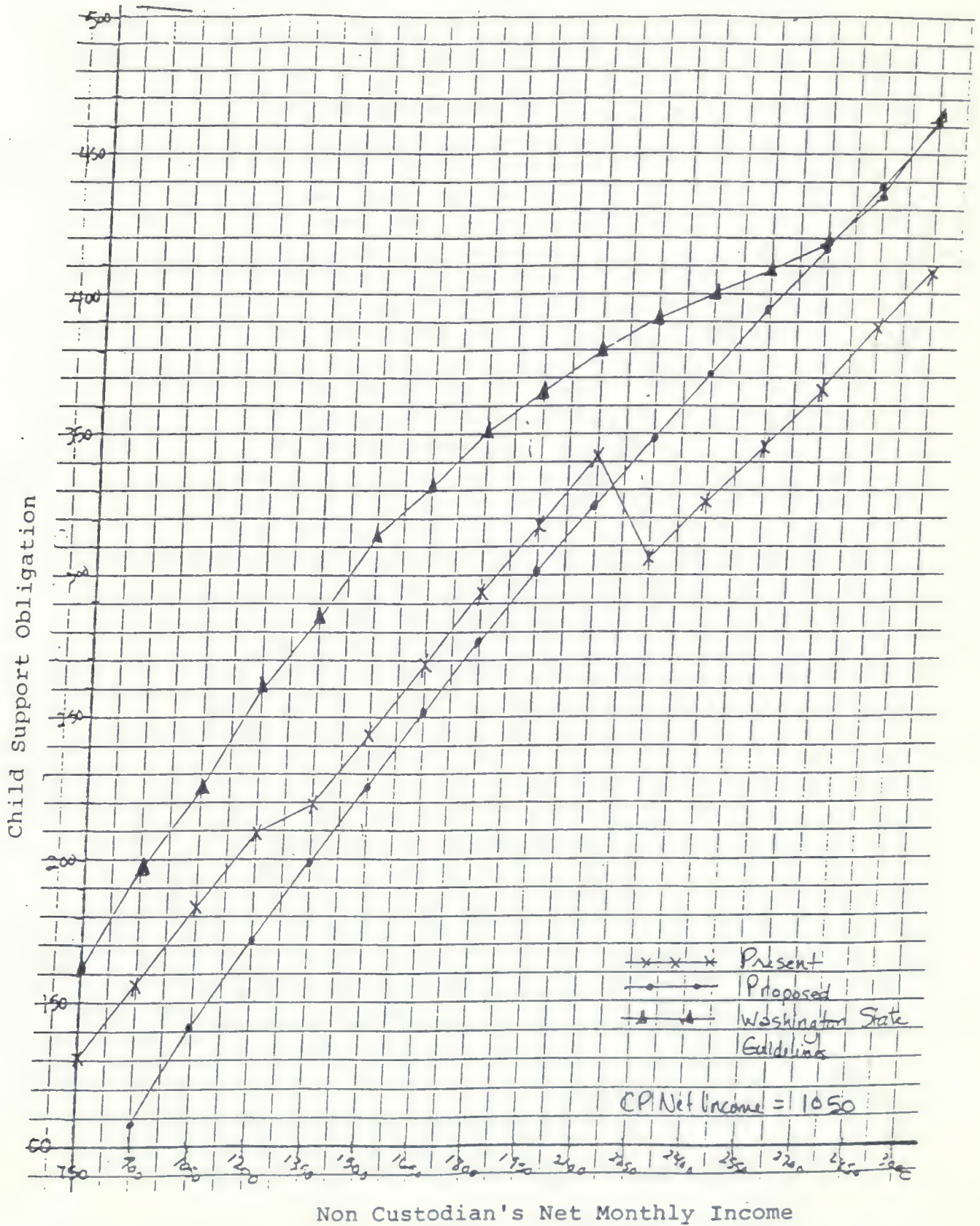

Rule Reviewer

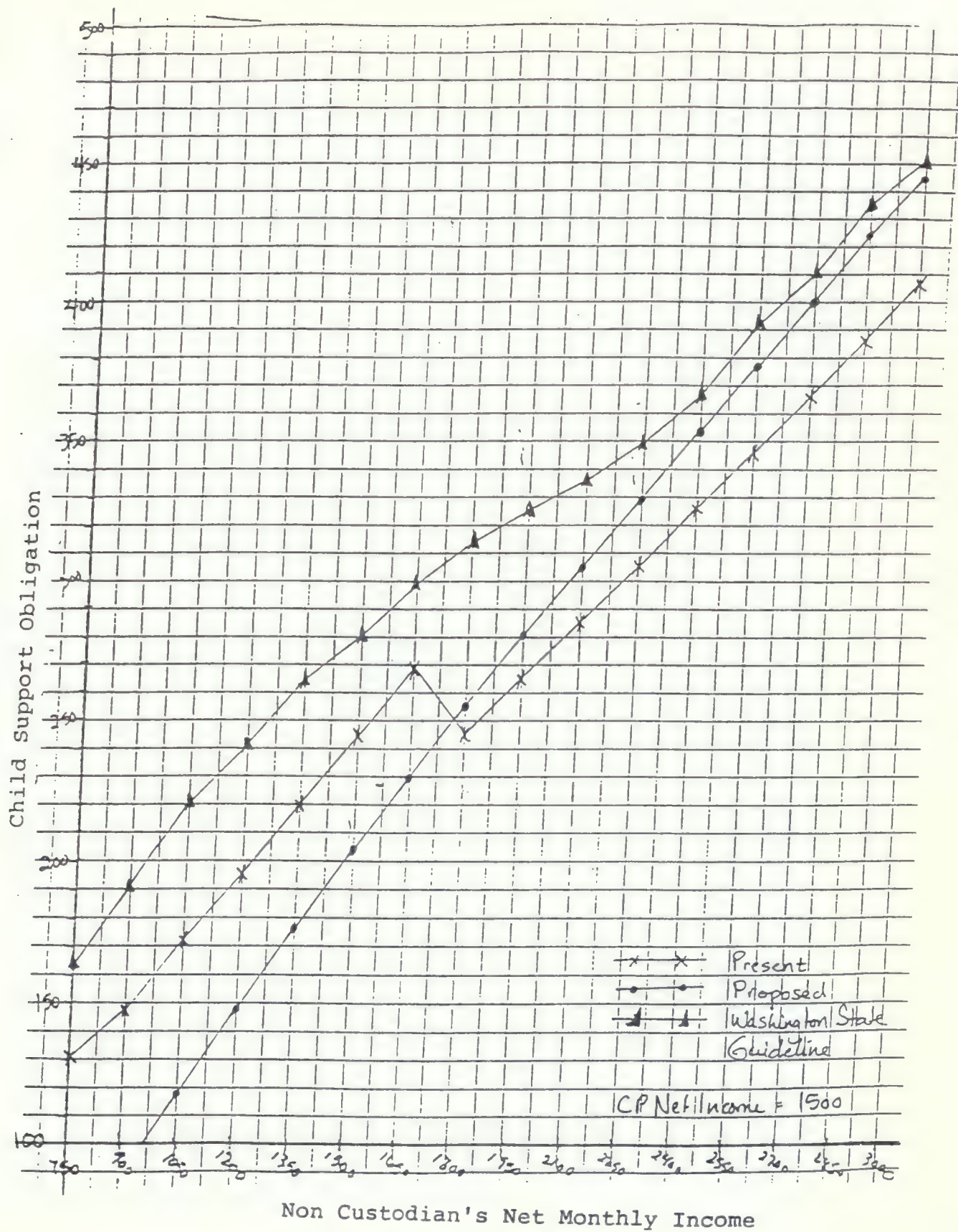

Director, Social and Rehabilitation Services

Certified to the Secretary of State July 20, 1992.

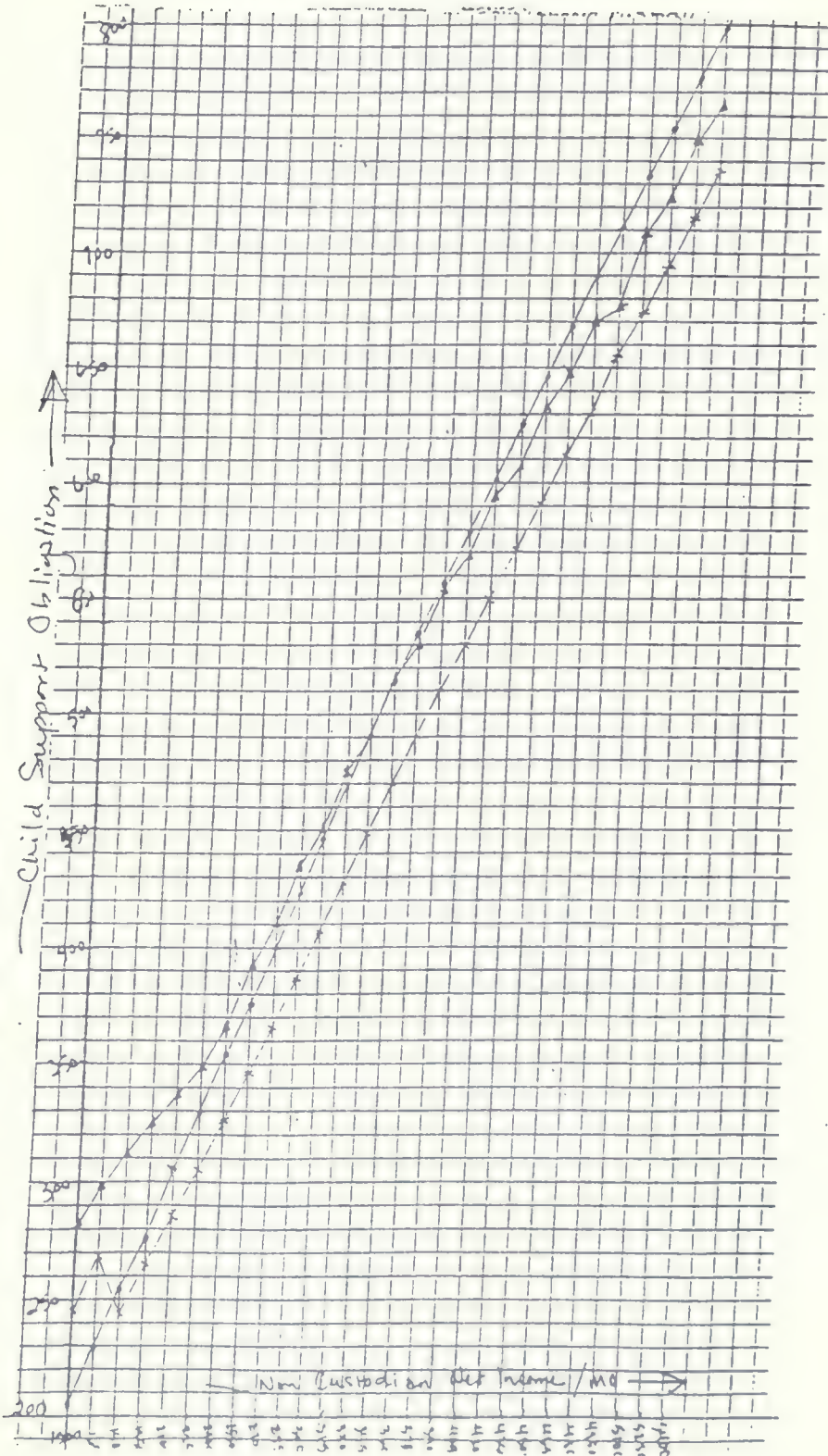








CP Net Income = 1500/mo (High Income Parents)
 X—X = Present MT Guidelines
 —●— = Proposed MT Guidelines
 —+— = WA State Guidelines



CHILD SUPPORT AND ENFORCEMENT SERVICES

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Sub-Chapter 13

State Debt Offsets

Rule 46.30.1301 Offest of State Tax Refunds for Child Support Debts

Rule 02 reserved

46.30.1303 Notice of State Tax Refunds for Child Support Debts

Rule 04 reserved

46.30.1305 Child Support Offset of Joint Return

Sub-Chapter 14

Independent Support Enforcement Contractor

Rule 46.30.1401 Independent Support Enforcement Contractor

Sub-Chapter 15

Child Support Guidelines

Rule 46.30.1501 Authority, Application and Purpose

46.30.1502 Definitions

Rules 03 through 06 reserved

46.30.1507 Rebuttable Presumption

46.30.1508 Determination of Gross Income

Rules 09 through 12 reserved

46.30.1513 Determination of Imputed Income

46.30.1514 Determination of Income Attributed to Assets

46.30.1515 Income Verification/Determining Annual Income

46.30.1516 Determination of Net Income

Rules 17 and 18 reserved

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Rule	46.30.1519	Determining Basic Child Support (REPEALED)
	46.30.1520	Alimony, Maintenance, Pre-Existing Child Support Obligations and Responsibility for Other Children
	46.30.1521	Self Support Reserve/Net Resources Available for Support
	46.30.1522	Primary Child Support Need Rules 23 and 24 reserved
	46.30.1525	Supplements for Primary Child Support Need Rules 26 through 30 reserved
	46.30.1531	Determining Child Support in Special Circumstances (REPEALED)
	46.30.1532	Medical Needs
	46.30.1533	Determination of Each Parent's Share of the Primary Child Support Need
	46.30.1534	Standard of Living Adjustment (SOLA)
	46.30.1535	Total Monthly Support Amount Rule 36 reserved
	46.30.1537	Self-Support Reserve (REPEALED)
	46.30.1538	Minimum Support Obligation Rules 39 and 40 reserved
	46.30.1541	Support Payable in Money
	46.30.1542	Credit for Benefits
	46.30.1543	Additional Grounds for Variance Rules 44 through 48 reserved
	46.30.1549	Support Guidelines Table/Forms

CHILD SUPPORT AND ENFORCEMENT SERVICES

Sub-Chapter 16

Fee Schedule

Rule	46.30.1601	Authority and Purpose
		Rule 02 reserved
	46.30.1603	Definitions
		Rule 04 reserved
	46.30.1605	Fee Schedule
		Rule 06 reserved
	46.30.1607	Waiver or Deference of Fees

Sub-Chapter 15

Child Support Guidelines

46.30.1501 AUTHORITY, APPLICATION AND PURPOSE

(1) These guidelines are promulgated under the authority of 40-5-209, MCA, for the purpose of establishing a standard to be used by the district courts, child support enforcement agencies, attorneys and parents in determining child support obligations.

(2) These guidelines are based on the principle that a child's standard of living should not, to the degree possible, be adversely affected because his or her parents are not living in the same household.

(3) The intent of the guidelines is to prescribe criteria which comply with the federal Family Support Act of 1988, P.L. 100-485 and the regulations promulgated thereunder at 45 CFR section 302.56 as amended.

(4) As required by 40-4-204 and 40-6-116, MCA, these guidelines apply to all default and non-contested cases as well as contested proceedings to establish support orders or to modify existing support orders. Under the referenced statutes, if there is insufficient financial information to apply the guidelines in a particular case, a final support order is not permissible. However, there is nothing in this requirement which would prohibit a temporary order, subject to final order of the court or hearing officer based on the subsequent production of financial information. In a default case or where a parent fails to produce financial information for use in applying the guidelines, a verified representation of the defaulting parent's income, based on the best information available, may be used. (History: Sec. 40-5-202 MCA; IMP, Sec. 40-5-209 MCA; NEW, 1990 MAR p. 1337, Eff. 7/13/90; AMD, 1992 MAR p. 1648, Eff. 7/31/92.)

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46.30.1502 DEFINITIONS For purposes of this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Federal poverty index" is the minimum amount of income needed for subsistence. The amount is developed by the U.S. office of management and budget, revised annually in accordance with 42 U.S.C. 9902, and published annually in the federal register.

(2) "Gross income" is defined in ARM 46.30.1508.

(3) "Guidelines" mean the administrative rules for establishment of child support as provided in ARM Title 46, chapter 30, subchapter 15.

(4) "Imputed income" is defined in ARM 46.30.1513.

(5) "Legal dependent" means natural born and adopted minor children, spouses, special needs adult children, household members covered by a conservatorship or guardianship, and parent's parents living in the household who are claimed on tax returns as legal dependents.

(6) "Net income" is defined in ARM 46.30.1520.

(7) "Non-performing asset" means a non-essential item of real or personal property which is not traditionally considered income producing.

(8) "Primary child support need" is defined in ARM 46.30.1522.

(9) "Self support reserve" is defined in ARM 46.30.1521.

(10) "Standard of living" includes the necessities, comforts and luxuries enjoyed or aspired to by either parent, the child or both parents and the child, which are needed to maintain them in customary or proper community status or circumstances. (History: Sec. 40-5-202 MCA; IMP, Sec. 40-5-209 MCA; NEW, 1992 MAR p. 1648, Eff. 7/31/92.)

Rules 03 through 06 reserved

46.30.1507 REBUTTABLE PRESUMPTION (1) The guideline creates a presumption of the adequacy and reasonableness of child support awards. However, every case must be determined on its own merits and circumstances and the presumption may be rebutted by evidence that a child's needs are not being met.

(2) At the request of one of the parties and upon consideration of the factors set out in the guidelines and in 40-4-204, 40-4-208 and 40-6-116, MCA, the guidelines may be rebutted and a variance from the guidelines amount may be granted. Any consideration of a variance from the guidelines must take into account the best interests of the child.

(3) A court or administrative hearing officer may find evidence to rebut the presumption and vary from the guidelines in a particular case only if the decree, separation order or support order contains a specific written finding showing justification that application of the guidelines would be unjust or inappropriate.

(4) Findings that rebut and vary the guidelines must include a statement of the amount of support that would have been ordered under the guidelines without the variance.

(5) A court or administrative hearing officer may vary from the guidelines based on a stipulation or agreement of the parties only if the stipulation or agreement meets the following criteria:

- (a) it is in writing executed by the parties;
- (b) the parties have signed the stipulation or agreement free of coercion;
- (c) it contains specific justification as to why application of the guidelines is unjust or inappropriate; and
- (d) it contains a statement of the amount of support that would have been appropriate under the guidelines without the variance.

(6) Many of the findings required by subsections (3), (4) and (5) to support a variance may be documented by attaching the parents' financial affidavit and child support worksheet provided in ARM 46.30.1549 to the support order, decree or agreement and incorporating those documents by reference. Variances not described in the affidavit and worksheet will require specific findings in the order, decree or agreement.

(7) A support order granting a variance shall provide that upon termination of the circumstances which justify the variance, the support amount shall immediately be the amount which would have been ordered under the guidelines without the variance.

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(8) If a variance from the guidelines is based on performance of an act, e.g., extended visitation, the support order should contain a provision for the possibility that the parent may fail to perform the act. These guidelines recommend a provision similar to the following: "[I]f the parent fails to perform an act which is the basis for a variance from the child support guidelines, the other parent may give written notice of the failure to the non-performing parent. Upon receipt of the notice the amount of child support shall revert automatically to the amount which would be appropriate under the guidelines but for the variance." The parent affected by this reversion may request that the court or administrative agency which issued the support order for a determination of the issue and subsequent reinstatement of the variance if the facts so warrant. (History: Sec. 40-5-202 MCA; IMP, Sec. 40-5-209 MCA; NEW, 1990 MAR p. 1337, Eff. 7/13/90; AMD, 1992 MAR p. 1648, Eff. 7/31/92.)

46.30.1508 DETERMINATION OF GROSS INCOME (1) In determining for each parent the resources which can be made available for child support, the following considerations apply:

(a) "gross income" means income from any source, except as excluded in subsection (d), and includes but is not limited to income from salaries, wages, commissions, bonuses, earnings, profits, dividends, severance pay, pensions, pre-retirement distributions from retirement plans, interest, trust income, annuities, capital gains, royalties, social security benefits, veteran's benefits, workers' compensation benefits, unemployment benefits and alimony or spousal maintenance;

(b) gross income also includes expense reimbursements or in-kind payments received by the parent in the course of self-employment, or operation of a business if such reimbursements or in-kind payments reduce personal living expenses. Such payments might include a company car, free housing or reimbursed meals;

(c) gross income for those who are self-employed, or who receive profits from a business enterprise such as a joint venture, a partnership, rental property, a sub-chapter S corporation, or a Montana close corporation includes gross receipts minus ordinary and necessary expenses for self-employment or business operation. Generally excluded from ordinary and necessary expenses are non-cash deductions, even though those deductions are allowable by the internal revenue service. As an exception, upon a showing of economic necessity, depreciation for vehicles, machinery and other tangible assets may be deducted;

(d) gross income does not include benefits received from means-tested public assistance programs including but not limited to aid to families with dependent children (AFDC), supplemental security income (SSI), food stamps, general assistance and child support payments received from other sources; and

(e) actual but not imputed interest from one-time gifts and inheritances should be considered as gross income. The non-performing property itself or the principal should be considered as an asset under ARM 46.30.1514. For lump sum social security payments, refer to ARM 46.30.1542.

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(2) In determining a parent's gross income, do not consider income attributable to subsequent spouses, stepparents, domestic associates and other persons who are part of the parent's household, as defined in ARM 46.30.1521 (3). If a person with a subsequent family has income from overtime or a second job, that income is presumed to be for the use of the subsequent family, and is not included in gross income for the purposes of determining support for a prior family. The presumption may be rebutted upon a showing that the additional income is discretionary. (History: Sec. 40-5-202 MCA; IMP, Sec. 40-5-209 MCA; NEW, 1992 MAR p. 1648, Eff. 7/31/92.)

Rules 09 through 12 reserved

46.30.1513 DETERMINATION OF IMPUTED INCOME (1) "Imputed income" means income not actually earned by a parent, but which may be attributed to the parent because the parent is voluntarily unemployed, is not working full-time when full-time work is available, or the parent is intentionally working below his or her ability or capacity to earn income.

(2) Income may be imputed according to one of two methods as appropriate:

(a) Determine employment potential and probable net earnings level based on the parent's recent work history, occupational qualifications, and prevailing job opportunities and earnings level in the community. If there is no recent work history, and no higher education or vocational training, income may be imputed at the minimum wage level.

(b) When a parent is married, remarried, or is living with a person who is contributing labor or money to a common household, and the parent elects to stay home as homemaker, the value for homemaker services may be imputed to the parent as income. The value of homemaker services should be imputed at the minimum wage level for a 40 hour week unless the court or administrative hearing officer determines another amount to be more appropriate.

(c) Whenever income is imputed to an unemployed parent who is providing in-home care for the child for whom support is being calculated, and if that parent would be required to incur child care expenses if employed at the imputed level, then the imputed income should be reduced by the reasonable value of the parent's child care service.

(d) Income should not be imputed if any of the following conditions exist:

(i) the reasonable costs of day care for the parties dependent children will offset, in whole or in substantial part, the amount of income the custodial parent can earn;

(ii) a parent is physically or mentally disabled to the extent that the parent cannot earn income at the federal minimum wage level for a 40 hour week;

(iii) the parent is engaged in a plan of economic self-improvement, including but not limited to education and re-training, which will result, within a reasonable time, in an economic benefit to the children for whom the support obligation is being determined;

(iv) unusual emotional and/or physical needs of the child require the custodial parent's presence in the home;

(v) the parent has made diligent efforts to find and accept suitable work or to return to customary self-employment, to no avail; or

(vi) the court or hearing officer makes a finding that other circumstances exist which make the imputation of income inequitable. However the amount of imputed income shall be decreased only to the extent required to remove such inequity.

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(e) Although income is not imputed under subsection (2) (d), actual income, including grants, scholarships, third party contributions or other money intended to subsidize the parent's living expenses and which are not required to be repaid at some later date, should be included in gross income. (History: Sec. 40-5-202 MCA; IMP, Sec. 40-5-209 MCA; NEW, 1990 MAR p. 1337, Eff. 7/13/90; AMD, 1992 MAR p. 1648, Eff. 7/31/92.)

46.30.1514 DETERMINATION OF INCOME ATTRIBUTED TO ASSETS

(1) Income attributed to assets is the amount of interest income which could be earned if non-performing assets are liquidated and the proceeds invested. For example, a parent may possess non-performing assets like a vacation home, idle land, hobby farm and recreational vehicles. In such cases, a child is entitled to benefit from this potential income.

(2) Income should be attributed to the net market value of non-performing assets at the average 10 year U.S. treasury constant maturity rates for the previous calendar year, or at another appropriate rate ordered by a court or administrative hearing officer. The rate should be based on a 365 day year.

(3) Income will not be attributed to assets which are exempt by state law from attachment or execution to enforce a child support obligation. (History: Sec. 40-5-202 MCA; IMP, Sec. 40-5-209 MCA; NEW, 1992 MAR p. 1648, Eff. 7/31/92.)

46.30.1515 INCOME VERIFICATION/DETERMINING ANNUAL INCOME

(1) A copy of the parent's financial affidavit and worksheet shall be submitted to the court or administrative hearing officer in each case, including cases in which agreed or stipulated orders are submitted to the court or administrative hearing office for approval. The worksheets and affidavits should be signed by each parent under penalties for perjury or false swearing.

(2) Income statements of the parents should be verified with documentation of both current and past income to the extent such documentation is available to the parent. Verification may include pay stubs, employer statements, and profit and loss statements. If a profit and loss statement is prepared by a parent or by another person who is not a licensed accountant or certified public accountant, the parent must certify under oath that the information shown on the statement is correct. Documentation of income may be supplemented with copies of income tax returns. Non-cash benefits received by a parent should also be verified. For example, verify the reasonable monthly value of the house used by the ranch hand as part of his or her employment.

(3) To the extent possible, gross income and expenses should be annualized to avoid the possibility of skewed application of the guidelines based on temporary or seasonal conditions. Income and expenses may be annualized using one of the two following methods:

(a) seasonal employment or fluctuating income should be averaged over a period sufficient to accurately reflect the parent's earning ability. However, income should not be averaged if a reduction is due to circumstances beyond a parent's control such as a plant closure; or

(b) current income or expenses may be projected when a recent increase or decrease in income is expected to continue for the foreseeable future. For example, when a student graduates and obtains permanent employment, income should be projected at the new wage. (History: Sec. 40-5-202 MCA; IMP, 40-5-209 MCA; NEW, 1992 MAR p. 1648, Eff. 7/31/92.)

46.30.1516 DETERMINATION OF NET INCOME (1) "Net income" means gross income, including imputed income and income attributed to assets, less any deductions for state or federal taxes, social security, and other similar deductions required by law or court order. Unreimbursed expenses incurred as a condition of employment such as union dues, uniform and other occupational or business expenses should also be deducted. Contributions towards internal revenue service approved retirement plans, whether voluntary or mandatory, are deductible from gross income up to the actual amount contributed or 6.5% Of gross income, whichever is less.

(a) When calculating taxes, tax tables should be used which show the maximum number of withholding exemptions allowable to the parent under the applicable tax law. Unless information to the contrary is available, presume that the parent is the head of household.

(b) Not to be included as a "deduction required by a law or court order" are attachments of income for satisfaction of judgments rendered against a parent for the enforcement of debts related to the purchase of property for the parent's personal use.

(2) Extraordinary medical expenses incurred by a parent to maintain that parent's health or earning capacity which are not reimbursed by insurance, employer, or other entity may be deducted from gross income.

(3) Reasonable expenses for items such as child care or in-home nursing care for the parent's legal dependents other than those for whom support is being determined, which are actually incurred and which are necessary to allow the parent to work, less federal tax credits, if any, may be deducted from gross income.

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46.30.1534 STANDARD OF LIVING ADJUSTMENT (SOLA) (1) The purpose of SOLA is to insure that the child enjoys, to the extent possible, the standard of living to which the child would be accustomed if the parents were living in the same household. If a parent has income available after deducting his or her self support reserve and the parent's share of the total primary child support need, a proportion of that remaining income is applied to additional child support.

(2) To determine income available for SOLA, subtract from the parent's net resources available for support, as provided in ARM 46.30.1521, the parent's share of the total primary child support need as provided in ARM 46.30.1533.

(3) If income is available for SOLA, multiply such income by the percentage from the following table which corresponds to the number of children for whom support is being determined.

<u>Number of Children</u>	<u>SOLA %</u>
1	14%
2	21%
3	27%
each additional child	4%

(4) The total amount payable by a parent as SOLA shall not exceed 50 percent of the parent's income available for SOLA unless there is a prior finding of specific need.

(5) Upon determining the total amount payable by a parent for SOLA, calculate SOLA and add it to the total primary support obligation. (History: Sec. 40-5-202 MCA; IMP, Sec. 40-5-209 MCA; NEW, 1992 p. 1648, Eff. 7/31/92.)

46.30.1535 TOTAL MONTHLY SUPPORT AMOUNT (1) The total monthly support amount is based on the primary support obligation of each parent, with supplements, if any, plus the SOLA obligation. The total monthly support amount is divided equally among the children, but is subject to ARM 46.30.1538. The actual amount of monthly support to be paid depends on the custody arrangement for the children and the child support obligation of each parent.

(2) In sole custody cases, or in joint custody cases where one parent has primary physical custody, the custodial parent should retain his or her child support obligation and the noncustodial parent shall pay his or her total monthly child support obligation to the custodial parent or to such other person or agency entitled to receive the payment.

(3) When there is split custody, i.e., where a parent has physical custody of one or more, but not all of the children, each parent shall retain that share of the support obligation owed to the child or children in his or her custody. After such retention, if one parent's obligation is

greater than that owed by the other, the difference between the amount owed by the parents shall be paid by the parent owing the greater amount to the other parent.

(4) Where there is a serial family, i.e., when a parent with prior existing children later incurs a child support obligation as a result of a subsequent family or paternity action, refer to ARM 46.30.1520 or 46.30.1521 as may be appropriate.

(5) In those cases where extended visitation/shared physical custody is awarded, an adjustment to the primary child support need is appropriate. Extended visitation/shared physical custody occurs when a child spends more than 110 days of each 365 day calendar year with the parent who in sole custody cases would pay over his or her share of the child support obligation to the primary custodian.

(a) For the purposes of this rule:

(i) a "day" is when a parent has physical control of a child for the majority of a 24 hour calendar day; and

(ii) the "primary custodian" is the parent who has physical custody of the child more than 50% annually. The "secondary custodian" is the parent who has physical custody for the remainder of the year.

(b) To adjust for extended visitation/shared physical custody, reduce the secondary custodian's share of the basic primary child support need by one percent for each day in excess of 110 days. For example, the basic primary child support need is \$400.00. The secondary custodian has the child for 146 days. The secondary custodian is responsible for 75 percent of the primary child support need or \$300.00 (\$400.00 X 75 percent). Reduce that amount by 36 percent (146 days minus the 110 visitation threshold) to arrive at the secondary custodian's adjusted share of the primary child support need in the amount of \$192.00. The secondary custodian's proportionate share of supplemental support needs should then be added to this sum.

(c) If an adjustment is given for extended visitation/shared physical custody arrangements, the support order should provide that if the arrangement is not exercised, the support payment, without further order of the tribunal which issued it, shall be the amount due under the guidelines for sole custody as provided in subsection (8) of ARM 46.30.1507.

(d) In no case may the adjustment made under this rule result in lowering the net resources of either parental household below the amount which corresponds to the federal poverty index for a household of that size. (History: Sec. 40-5-202 MCA; IMP, Sec. 40-5-209 MCA; NEW, 1992 MAR p. 1648, Eff. 7/31/92.

Rule 36 reserved

NEXT PAGE IS 46-8325

46.30.1537 SELF-SUPPORT RESERVE (IS HEREBY REPEALED)
(History: Sec. 40-5-202 MCA; IMP, Sec. 40-5-209 MCA; NEW, 1990 MAR p. 1337, Eff. 7/13/90; REP, 1992 MAR p. 1648, Eff. 7/31/92.)

46.30.1538 MINIMUM SUPPORT OBLIGATION (1) Except for parents with extremely low net income, a specific minimum contribution towards child support should be ordered in all cases even though a parent does not have sufficient net income to meet their own self support reserve needs. This minimum contribution is determined as follows:

(a) if net income is less than one-third of the parent's self support reserve, a zero support order is appropriate;

(b) if net income is equal to or greater than one-third of the parent's self support reserve but less than two-thirds, the parent should contribute an amount equal to five percent of his or her net income; or

(c) if net income is equal to or greater than two-thirds but less than the parent's self support reserve, the parent should contribute seven percent of his or her net income.

(2) A minimum contribution table is provided as part of the child support worksheet in ARM 46.30.1549. The table represents the midpoint of the range between one-third and two-thirds times five percent and the midpoint of the range between two-thirds and the full self support reserve times seven percent. The respective midpoints are expressed in a dollar amount which should be ordered as the parent's minimum contribution towards the support of his or her children.

(3) For parents who have net income which equals or exceeds the parent's self support reserve but which is less than a child's total primary support need, the parent's minimum contribution is:

(a) the difference between net income and the parent's self support reserve, however;

(b) the parent's minimum contribution shall not be less than an amount equal to seven percent of the parent's net income.

(4) The minimum contributions under this section are presumptive and may be rebutted by the circumstances of a particular case, provided there is an appropriate finding on the record.

(5) Although this rule expresses the minimum contribution as a percentage of net income, for ease of enforcement of this support order and for the sake of consistency the support order should express the percentage in a specific dollar amount.

SOCIAL AND
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(6) A minimum contribution order is applicable only when a parent does not have sufficient net income to meet his or her own self support reserve. It is also applicable when a parent has sufficient income for his or her self support reserve but income is not sufficient to meet the child's total primary support needs. However, in some cases calculated under the guidelines, the payment level may properly be less than the minimum contribution amount, e.g., when the incomes of the parents are near equal, or in split custody cases. (History: Sec. 40-5-202 MCA; IMP, Sec. 40-5-209 MCA; NEW, 1992 MAR p. 1648, Eff. 7/31/92.)

Rules 39 and 40 reserved

46.30.1541 SUPPORT PAYABLE IN MONEY (1) The child support order is to be paid in money.

(2) Gifts, clothing, food, payment of expenses, etc., in lieu of money will not be allowed as a credit for payment of a child support obligation except by court or administrative order.

(3) Unless otherwise ordered, direct payments to the child or the custodian will not be allowed as credit for payment of a child support obligation payable through the clerk of court, the child support enforcement division or other entity as specified in the court order. (History: Sec. 40-5-202 MCA; IMP, Sec. 40-5-209 MCA; NEW, 1992 MAR p. 1648, Eff. 7/31/92.)

46.30.1542 CREDIT FOR BENEFITS (1) Social security benefits which are based on the earning record of the non-custodial parent shall be considered in establishing new support orders or modification of existing orders under the following conditions:

(a) only the benefits received by the parent are to be included in that parent's gross income;

(b) the parent's obligation is satisfied if the amount of the child's benefit for a given month is equal to or greater than the parent's child support obligation. Any benefit received by the child for a given month in excess of the child support obligation is not treated as an arrearage payment or as future support;

(c) the parent must pay the difference if the amount of the child's benefit for a given month is less than the parent's child support obligation; and

(d) whenever a custodial parent receives for the benefit of the child, a lump sum payment which represents an accumulation of monthly benefits:

(i) the lump sum payment should not be treated as income of the parent;

(ii) the lump sum should be credited to the child support obligation for each month a payment accumulated for the child's benefit; and

(iii) the parent on whose earning record the benefits are based will not receive credit against that parent's child support obligation unless the court or administrative support order permits such credit. (History: Sec. 40-5-202 MCA; IMP, Sec. 40-5-209 MCA; NEW, 1992 MAR p. 1648, Eff. 7/31/92.)

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46.30.1543 ADDITIONAL GROUNDS FOR VARIANCE (1) In addition to other reasons for variance set out in these guidelines, the following is a non-exclusive list of factors which may be used on a case-by-case basis to rebut the guideline amount of child support:

(a) distribution of property between parents and to the child;

(b) tax consequences of property distribution;

(c) educational expenses for a child incurred for private, parochial, or trade schools, or other schools where there is tuition or other costs beyond state or local tax contributions;

(d) specific findings of fact under 40-4-204(3) or 40-6-116(6), MCA, which shows that application of the guideline is inequitable;

(e) periods of extended visitation of 30 or more consecutive days, except for intervening visitation by the other parent, and considering child related fixed costs;

(f) geographical costs-of-living differential;

(g) residence of child with third party;

(h) overall financial condition of a parent;

(i) custodial parent and child have continuing right to occupy the former family home free of costs or at substantially reduced costs;

(j) allocation of dependent tax exemptions to the non-custodial parent;

(k) adjustment for older children in the 16 to 17 age bracket;

(l) long distance visitation cost;

(m) earnings of a child if it amounts to a large sum of money; and

(n) the standard of living of a parent, both parents, or parents and child is lower or higher than the standard of living which may be expected at the parent's income level and under these guidelines. (History: Sec. 40-5-202 MCA; IMP, Sec. 40-5-209 MCA; NEW, 1990 MAR p. 1337, Eff. 7/13/90; AMD, 1992 MAR p. 1648, Eff. 7/31/92.)

Rules 44 through 48 reserved

SOCIAL AND
REHABILITATION SERVICES

(4) Deductions for the convenience of the parent, such as credit union payments, deferred compensation and savings are not to be deducted from gross income.

(5) In some cases an employed parent may also operate a business or farm, or a self-employed parent may have more than one business. A net loss in the operation of a business or farm should not offset income from employment or from the operation of a more successful enterprise, unless the parent cannot reasonably remove himself or herself from the unprofitable situation. Property associated with the unprofitable business or farm should be considered an asset under ARM 46.30.1514.

(6) Net resources available for child support may differ from a determination of income for tax purposes. (History: Sec. 40-5-202 MCA; IMP, Sec. 40-5-209; NEW, 1992 MAR p. 1648, Eff. 7/31/92.)

Rules 17 and 18 reserved

46.30.1519 DETERMINING BASIC CHILD (IS HEREBY REPEALED)
(History: Sec. 40-5-202 MCA; IMP, Sec. 40-5-209 MCA; NEW, 1990 MAR p. 1337, Eff. 7/13/90; REP, 1992 MAR p. 1648, Eff. 7/31/92.)

46.30.1520 ALIMONY, MAINTENANCE, PRE-EXISTING CHILD SUPPORT OBLIGATIONS AND RESPONSIBILITY FOR OTHER CHILDREN

(1) The amount of alimony or spousal maintenance which a parent is required to pay under a court or administrative order should be deducted from gross income.

(2) For the support of children who are not subject of the child support action:

(a) the amount of the order should be deducted from the parent's gross income if there is a pre-existing support order; or

(b) the basic needs of the children are included as part of the parent's self support allowance as calculated in ARM 46.30.1521 if there is no pre-existing support order.

(3) Use of the deductions provided in this rule are appropriate at the time of the establishment of a child support order. In a proceeding to modify an existing order, the following limitations apply:

(a) A non-custodial parent's obligation to provide child support for natural or adopted children of a subsequent family arising after entry of an existing child support order should not be considered for the purpose of lowering an existing family's current child support order.

(b) If the custodial parent with a support order petitions to increase child support, all other natural born and adopted children of the non-custodial parent may be considered in determining whether to increase the support order.
(History: Sec. 40-5-202 MCA; IMP, Sec. 40-5-209 MCA; NEW, 1992 MAR p. 1648, Eff. 7/31/92.)

SOCIAL AND
REHABILITATION SERVICES46.30.1521 SELF SUPPORT RESERVE/NET RESOURCES AVAILABLE
FOR SUPPORT

(1) The "self support reserve" means the minimum amount of income which a parent must retain to meet the minimum subsistence needs of his or her household for food, clothing, shelter, medical care and job-required transportation. A parent's income is available for child support only when the parent's net income exceeds the self support reserve. These guidelines presume the support reserve to be the amount which corresponds to the parent's household size in the federal poverty index.

(2) In determining a parent's self support reserve, income of stepparents, subsequent spouses, domestic associates and others who are part of a parent's household is presumed to be available to the parent for sharing, on a proportionate basis, the parent's household expenses.

(3) For the purpose of this section a parent's household includes:

(a) legal dependents except those dependents for whom a pre-existing support order is established by a court or administrative process as specified in ARM 46.30.1520;

(b) persons such as stepparents, the parent's parents and domestic associates if those persons reside with the parent and have income which reduce the parent's expense of maintaining the household; and

(c) persons who are not legal dependents of the parent and who reside in the parent's household without sharing household expenses are not included as part of the household.

(4) To determine a parent's self support reserve:

(a) ascertain the size of the parent's household;

(b) determine the amount of income using the federal poverty index which corresponds to household size. Although family size in the poverty index is not defined the same as household size in this guideline, for the purpose of this determination only, household size is equivalent to family size in the poverty index;

(c) add \$100.00 to the amount determined in subsection

(b) as an adjustment for work-related expenses of each employed person in the household other than the parent who provides income to the household; and

(d) divide the total of subsections (b) and (c) by the number of persons, including the parent, who provide income for the household. The result of this computation is the parent's self-support reserve. For example, a parent is remarried and lives with the new spouse's parents. Both the new spouse and the father-in-law have income which reduce the parent's share of household living expenses. The parent has legal responsibility for two prior children who are residing with him. The household size would consist of five persons: the parent, the two prior children, the new spouse and the father-in-law. The mother-in-law is not included in the household size because she does not have income and the parent has no legal obligation for her support.

(5) Net available resources for primary child support is determined by subtracting from each parent's net income the amount of self support reserve determined for that parent under this section. (History: Sec. 40-5-202 MCA; IMP, Sec. 40-5-209 MCA; NEW, 1992 MAR p. 1648, Eff. 7/31/92.)

46.30.1522 PRIMARY CHILD SUPPORT NEED (1) "Primary child support need" means the minimum amount of money that a child requires for food, shelter, clothing and medical needs. These guidelines presume the basic primary child support need to be an amount which corresponds to 30 percent of the self support reserve determined for a one member household for the first child, 20 percent of the same level for each of the second and third children and 10 percent for each additional child.

(2) The basic primary child support need may be supplemented as provided in other sections of these guidelines. (History: Sec. 40-5-202 MCA; IMP, Sec. 40-5-209 MCA; NEW, 1992 MAR p. 1648, Eff. 7/31/92.)

Rules 23 and 24 reserved

46.30.1525 SUPPLEMENTS FOR PRIMARY CHILD SUPPORT NEED

(1) The basic primary child support obligation may be supplemented upon the following conditions:

(a) "Child care costs" means when a child support obligation is to be calculated based in part on the earnings of a custodial parent and that parent must incur child care expenses for that child as a prerequisite to employment, it is recommended that the reasonable costs of child care should be pro-rated between the parents and added to supplement the basic child support obligation;

(i) determination of reasonable monthly child care costs may be based on annualized, average costs of receipted expenses or when the history of such expenses are not available, upon estimates based on the average necessary monthly costs of such service. The value of the federal income tax credit for child care should be subtracted to arrive at a figure for net costs as calculated by IRS form 2441. Net costs should be pro-rated between the parents on the same basis as the basic support obligation.

(b) if "extraordinary medical expenses" are incurred on behalf of a child which are likely to reoccur on a periodic basis, those expenses should be pro-rated between the parents and added to supplement the basic child support obligation. Extraordinary medical expenses include physical therapy, special education, mental disorders, and any other expenses to treat chronic or unusual health problems.

(i) the amount to be paid each month for extraordinary medical expenses may be determined by adding a monthly average of past expenses if future costs are expected to be comparable.

(2) After determining each parent's share of the total child support obligation, each parent shall receive credit for the amount of the supplemental needs paid by that parent. (History: Sec. 40-5-202 MCA; IMP, Sec. 40-5-209 MCA; NEW, 1990 MAR p. 1337, Eff. 7/13/90; AMD, 1992 MAR p. 1648, Eff. 7/31/92.)

Rules 26 through 30 reserved

46.30.1531 DETERMINING CHILD SUPPORT IN SPECIAL CIRCUMSTANCES (IS HEREBY REPEALED) (History: Sec. 40-5-202 MCA; IMP, Sec. 40-5-209 MCA; NEW, 1990 MAR p. 1337, Eff. 7/13/90; REP, 1992 MAR p. 1648, Eff. 7/31/92.)

46.30.1532 MEDICAL NEEDS (1) Under 40-4-204 and 40-6-116, MCA, child support orders are to include an allocation of health insurance coverage for children. When a parent or parents are providing health or medical insurance coverage for the child, the costs incurred for the child's portion of the premium should be added to the child's primary support need. Once the parent's share of the primary child support need is determined, the parent paying the premium shall be given a credit for the premium against the primary child support payment. Orders to provide health insurance coverage should apportion uninsured medical or health needs of the child between the parents at the same basis as the primary child support need is apportioned. If health or medical insurance is not available to the parent as provided in those statutes, then the support order should apportion the child's entire health needs between the parents at the same rate as the primary child support need until such time as health insurance does become available. In all cases, provisions for health insurance needs of the child must be included in all support orders and modifications of existing support orders. (History: Sec. 40-5-209 MCA; IMP, Sec. 40-4-204 and 40-6-116 MCA; NEW, 1992 MAR p. 1648, Eff. 7/31/92.)

46.30.1533 DETERMINATION OF EACH PARENT'S SHARE OF THE PRIMARY CHILD SUPPORT NEED (1) Divide each parent's net available resources for child support, as provided in ARM 46.30.1521, by the total net available resources. The resulting percentage establishes the burden which each parent should carry with respect to the primary child support needs of their children. This percentage should then be multiplied by the total primary child support need in order to determine the primary support obligations of each parent. In no instance shall the parent's primary support obligation exceed the net resources available for child support, except as provided in ARM 46.30.1538. (History: Sec. 40-5-202 MCA; IMP, Sec. 40-5-209 MCA; NEW, 1992 MAR p. 1648, Eff. 7/31/92.)

46.30.1549 SUPPORT GUIDELINE TABLE/FORMS (1) The CSED has developed a parent's financial affidavit for use in child support determinations. The affidavit, when completed, will give sufficient information to calculate a child support award under the guidelines, including a determination of the parent's household size for calculating the parent's self support reserve. The affidavit will also contain information pertaining to grounds and justification for a variance from the guideline.

(2) The completed child support worksheet will result in an established dollar amount payable as child support. In arriving at this result, the worksheet extracts and compiles information from the parent's financial affidavit. If a variance from the guidelines is granted, the worksheet will also show what the support award would be without the variance. Included for use with the worksheet are tables for calculating the parent's self support reserve, a child's primary support need, SOLA and a minimum support obligation for low income parents. To assure that these tables are current, the child support enforcement division will republish the worksheet with tables annually in the month of April. The worksheet with tables will be identified by the year of publication or republication.

(3) The parent's financial affidavit and child support worksheet, or a replica of those forms with a similar format and containing the same information, must be used in all child support determinations under the guidelines.

(4) Copies of the parent's financial affidavit and child support worksheet may be obtained from the Department of Social and Rehabilitation Services, Child Support Enforcement Division, P.O. Box 5955, Helena, MT 59604 or any branch office. (History: Sec. 40-5-202 MCA; IMP, Sec. 40-5-209 MCA; NEW, 1990 MAR p. 2312, Eff. 7/13/90; AMD, 1992 MAR p. 1648, Eff. 7/31/92.)

Sub-Chapter 16

Fee Schedule

46.30.1601 AUTHORITY AND PURPOSE (1) This fee schedule is promulgated under the authority of 40-5-210, MCA, to compensate the CSED for services rendered in the establishment of paternity and the establishment and enforcement of support obligations including the obligation to obtain and maintain health insurance benefits for children. (History: Sec. 40-5-202 and 40-5-210 MCA; IMP, Sec. 40-5-210 MCA; NEW, 1990 MAR p. 1337, Eff. 7/13/90.)

Rule 02 reserved

46.30.1603 DEFINITIONS For the purpose of this subchapter, unless the context requires otherwise, the following definitions apply:

(1) "Actual costs" or "actual expenses" means any cost, fee, or expense represented by a bill, warrant, or invoice for a cost or expense incurred by the CSED in the provision of services under Title IV-D of the Social Security Act. Such costs or expenses include, but are not limited to, the following:

- (a) genetic blood testing including phlebotomy;
- (b) service of process or other notice required by law, rule or regulation to be served on a party;
- (c) witness fees and expert witness fees together with any cost for transportation, meals and lodging;
- (d) fees incurred or associated with the production of documents or exhibits, including copy costs, which result from a subpoena or subpoena duces tecum;
- (e) state or federal tax intercepts;
- (f) full federal internal revenue service collection fees; and
- (g) hearing office services.

(2) "Standardized costs" mean an average of costs or expenses which are related to or derived from routine CSED activities and for which there are no specific bills, warrants, invoices or employee time sheets which represent specific costs or expenditures in a given case. (History: Sec. 40-5-202 and 40-5-210 MCA; IMP, Sec. 40-5-210 MCA; NEW, 1990 MAR p. 1337, Eff. 7/13/90.)

Rule 04 reserved

46.30.1605 FEE SCHEDULE (1) In any judicial or administrative action (including post judgment proceedings) in which the CSED is the prevailing party the following fees will be charged to the obligor:

(a) actual costs and expenses; and
(b) standardized fees for administrative actions as follows:

(i) preparation of any notice under 40-5-208, 40-5-222, 40-5-223, 40-5-225, 40-5-232, 40-5-413, 17-4-103, MCA, 45 CFR 303.72, and ARM 46.30.803 (including, if appropriate, notice and entry of default orders) \$8.50; plus

(ii) obtaining informal disposition of a noticed matter through negotiation, settlement or compromise _ _ _ _ \$53.50; or

(iii) preparation for administrative hearing including interviewing and preparing witnesses, preparing and copying exhibits, research and investigation, and attendance at the hearing \$72.00.

(c) Standardized fees for judicial proceedings:

(i) commencement of judicial proceedings through preparation and filing of pleadings, complaints, or petitions, including clerical and caseworker preparation and investigation (also includes, if appropriate, notice and entry of default judgments or orders) \$66.50; plus

(ii) obtaining informal disposition by caseworker or legal staff through negotiation, compromise, or settlement \$36.00; or

(iii) preparation for judicial trial, hearing or other proceeding including discovery, research, caseworker investigation, interviewing and preparing witnesses, pre-hearing briefs, and attendance at judicial trial, hearing or other proceedings.

(A) paternity actions _ _ _ _ _ \$715.00

(B) all others _ _ _ _ _ \$240.00

(d) Standardized fees for central office parent/asset locate _ _ _ _ _ \$ 11.00

(e) Standardized fees for interstate actions _ _ _

(i) registration with central registry _ _ _ \$ 8.00

(ii) preparation of interstate transmittal _ _ _ \$ 33.00

(iii) preparation of URESA petitions _ _ _ \$ 81.00

(History: Sec. 40-5-202 and 40-5-210 MCA; IMP, Sec. 40-5-210 MCA; NEW, 1990 MAR p. 1337, Eff. 7/13/90.)

Rule 06 reserved

CHILD SUPPORT AND ENFORCEMENT SERVICES 46.30.1607

46.30.1607 WAIVER OR DEFERENCE OF FEES (1) The CSED may not waive or defer any of the foregoing fees except to encourage expedient, informal dispositions. (History: Sec. 40-5-202 and 40-5-210 MCA; IMP, Sec. 40-5-210 MCA; NEW, 1990 MAR p. 1337, Eff. 7/13/90.)

MONTANA CHILD SUPPORT DETERMINATION WORKSHEET

Worksheet A

Cause/Case Number _____	Shared Custody ☐	Yes	No	Split Custody ☐	☐
-------------------------	---	-----	----	--	--------------------------

Children for whom this determination is made:

Name	Date of Birth
_____	_____
_____	_____
_____	_____
_____	_____

Mother's name _____

Father's name _____

	Mother	Father
1. Gross income (annual)		
a. wages, salaries, commissions	\$ _____	\$ _____
b. self-employment net earnings	_____	_____
c. pensions, social security	_____	_____
d. unearned income	_____	_____
e. imputed income	_____	_____
f. other _____	_____	_____
g. Total	_____	_____
2. Net value of assets		
a. automobiles	_____	_____
b. recreational vehicles	_____	_____
c. real estate	_____	_____
d. bank accounts	_____	_____
e. other _____	_____	_____
f. Total	_____	_____
3. Average 10 year U.S. Treasury constant maturity rate for previous calendar year _____%		
4. Annual income attributed to assets (line 3 times line 2f)	_____	_____
5. TOTAL GROSS INCOME (line 1g plus line 4)	\$ _____	\$ _____

Mother

Father

6. Allowable deductions (annual)

a. court-ordered child support (for other children)	\$ _____	\$ _____
b. court-ordered alimony/spousal	_____	_____
c. health insurance premium (for other children)	_____	_____
d. federal taxes	_____	_____
e. state taxes	_____	_____
f. social security (FICA plus Medicare)	_____	_____
g. union dues	_____	_____
h. retirement contributions	_____	_____
i. required employment expense	_____	_____
j. other _____	_____	_____
k. Total allowable deductions	\$ _____	\$ _____

7. Net income (line 5 minus line 6k)

_____	_____
-------	-------

8. **NET MONTHLY INCOME**

(amount from line 7 divided by 12)

\$ _____	\$ _____
----------	----------

9. Self-Support Reserve -- information to complete lines 9a and 9b will be found in Section C of each parent's Financial Affidavit.

a. size of household	_____	_____
b. number of income earners	_____	_____
c. self-support reserve from Table 1	_____	_____

10. **NET AVAILABLE RESOURCES**
(line 8 minus line 9c. If less than zero, enter zero.)

\$ _____	\$ _____
----------	----------

NOTE: IF LINE 10 IS ZERO FOR BOTH MOTHER AND FATHER, SKIP TO LINE 24 AND REFER TO TABLE 3 FOR MINIMUM CONTRIBUTION. IF ONLY ONE COLUMN IS ZERO, GO TO LINE 11.

- | | | |
|---|-------------------|-------------------|
| 10. Net available resources
(carried forward from page 2) | \$ _____ | \$ _____ |
| 11. Combined available resources
(add line 10, both columns) | \$ _____ | |
| 12. Parental share of combined
resources (line 10, each
column, divided by line 11) | Mother
_____ % | Father
_____ % |
| 13. Number of children due support in
this action | _____ | |
| 14. Primary support need for number of
children in line 13 (from Table 2) | _____ | |

NOTE: IF YOU CHECKED "YES" ON SPLIT CUSTODY, GO TO WORKSHEET C.

- | | | |
|---|----------|----------|
| 15. Parent's share of primary need
(line 12, each column, times line 14) | \$ _____ | \$ _____ |
| 16. Supplement to primary need (NOTE: combine monthly expenses of mother, father
and/or third party custodian, if applicable) | | |
| a. child health insurance premium | \$ _____ | |
| b. child daycare costs | _____ | |
| c. child extraordinary medical expenses | _____ | |
| d. other _____ | _____ | |
| e. Total supplement | _____ | |
| 17. Parent's share of supplemental need
(line 12, each column, times line 16e) | _____ | _____ |
| 18. Parent's share of total need --
primary and supplement (line 15 plus
line 17) | _____ | _____ |

**NOTE: IF LINE 18 IS ZERO FOR EITHER COLUMN, SKIP TO LINE 24 FOR THAT COLUMN,
REFER TO TABLE 3 AND ENTER MINIMUM CONTRIBUTION ON LINE 24.**

- | | | |
|---|----------------|----------------|
| 19. If line 18 is greater than or equal
to line 10, enter amount from line 8
(Net Monthly Income) here. If line 18 is
less than line 10, skip to line 21. | _____ | _____ |
| 20. Multiply line 19 by 7%. | x .07
_____ | x .07
_____ |

NOTE: IF ENTRY ON LINE 20, COMPARE IT WITH LINE 10. SKIP TO LINE 24 AND ENTER THE LARGER OF LINE 10 OR 20.

	Mother	Father
21. Income available for SOLA (line 10 minus line 18)	\$ _____	\$ _____
22. SOLA amount from Table 4	_____	_____
23. In split custody case, multiply line 22 by decimal from line 8 of Worksheet C. If not split custody, enter line 22 amount here.	_____	_____
24. Gross monthly obligation (line 18 plus line 23, if entry on line 23; otherwise, from Table 3)	_____	_____
25. Credit for payment of expenses (enter amount of line 16e expenses that each parent pays or line 3e expenses from Worksheet C that each parent pays)	_____	_____

26. Net monthly obligation before
variance (line 24 minus line 25; if
less than zero, enter zero)

\$ _____	\$ _____
----------	----------

27. Variance from Guidelines
(check items considered)

Amount of Variance (+/-)

	Mother	Father
☐ a. distribution of property	\$ _____	\$ _____
☐ b. tax consequences of distribution	_____	_____
☐ c. educational expenses for child(ren)	_____	_____
☐ d. specific findings of fact	_____	_____
☐ e. extended visitation	_____	_____
☐ f. cost-of-living differential	_____	_____
☐ g. third-party residence of child(ren)	_____	_____
☐ h. financial condition of parent	_____	_____
☐ i. occupation of family home	_____	_____
☐ j. tax exemption for child(ren)	_____	_____
☐ k. long-distance visitation	_____	_____
☐ l. child(ren)'s earnings	_____	_____
☐ m. other _____	_____	_____
n. TOTAL VARIANCE FROM GUIDELINES	\$ _____	\$ _____

28. Total monthly obligation after
variance (line 26 plus or minus line 27n) \$ _____ \$ _____

**NOTE: IF YOU CHECKED "YES" ON SHARED CUSTODY, GO TO WORKSHEET B. IF YOU
COMPLETED SPLIT CUSTODY WORKSHEET, SKIP LINE 29 AND COMPLETE LINE 30.**

29. **TOTAL MONTHLY OBLIGATION PER CHILD**
(line 28 divided by line 13) \$ _____ \$ _____

30. **TOTAL MONTHLY OBLIGATION PER CHILD
FOR SPLIT CUSTODY** (mother's line
28 divided by number of children in father's
custody; father's line 28 divided by number
of children in mother's custody) \$ _____ \$ _____

**Note: Parent owing the larger obligation pays the difference to the parent owing
the smaller obligation.**

COMMENTS:

Prepared By

Date

MONTANA
CHILD SUPPORT DETERMINATION WORKSHEET

Worksheet B - Shared Custody

Before completing Worksheet B for shared custody, complete Worksheet A through line 28.

1. Total monthly obligation if sole custody (from line 28, Worksheet A, secondary custodian's column) \$ _____
2. Number of overnights per year that child(ren) will be with secondary custodian _____
3. Ordinary visitation per year _____ 110
4. Overnights beyond ordinary visitation (line 2 minus line 3) _____
5. Credit for additional overnights (line 1 times line 4 divided by 100) _____

TO DETERMINE ALLOWABLE PORTION OF SHARED CUSTODY CREDIT:

6. Primary custodian's net income including child support. Line 8, Worksheet A (primary custodian's column) plus line 1, above _____
7. Self-support reserve (from line 9c, Worksheet A, primary custodian's column) _____
8. Subtract line 7 from line 6. **If less than zero, no credit allowed for shared custody.** Complete Worksheet A through line 29. If greater than zero, enter here. _____
9. Allowable credit for shared custody. (Compare line 5 to line 8 and enter the smaller amount here.) _____
10. **TOTAL MONTHLY OBLIGATION BASED ON PROJECTED CUSTODIAL PLAN** (line 1 minus line 9) _____
11. **TOTAL MONTHLY OBLIGATION PER CHILD** (line 10, above, divided by line 13, Worksheet A) \$ _____

MONTANA CHILD SUPPORT DETERMINATION WORKSHEET

Worksheet C - Split Custody

Before completing Worksheet C for split custody, complete Worksheet A through line 14. This worksheet computes the primary and supplemental support needs on a per child basis for up to four children. For more than four children, add columns for lines 1 through 4 on a separate sheet. At line 5, combine totals for all children.

	A	B	C	D
1. Children's names	_____	_____	_____	_____
2. Primary need per child from Worksheet A, line 14 divided by line 13. (Enter same amount for each child.)	_____	_____	_____	_____
3. Supplement to primary need (enter monthly amounts only as they apply to each child)				
a. child health insurance	_____	_____	_____	_____
b. child daycare costs	_____	_____	_____	_____
c. child extraordinary medical expenses	_____	_____	_____	_____
d. other	_____	_____	_____	_____
e. Total supplement	_____	_____	_____	_____
4. Total need for each child (line 2 plus line 3e)	_____	_____	_____	_____
5. Total needs of child(ren) with each parent (add columns, at line 4, for all children with each parent; e.g., child A plus child B with mother; child C plus child D with father)		Mother	Father	
		_____	_____	
6. Parental share of combined resources (from line 12, Worksheet A)		_____ %	_____ %	
7. Parent's share of needs of child(ren) in other parent's custody (mother's line 5 times father's line 6, enter in father's column; and father's line 5 times mother's line 6, enter in mother's column)		_____	_____	
8. Parent's share of children in other parent's custody (number of children with each parent divided by total number of children; enter result for mother in father's column and enter result for father in mother's column)		_____	_____	

Enter amounts from line 7, above, on line 18, Worksheet A.
Complete Worksheet A through line 30.

TABLE 1 - SELF-SUPPORT RESERVE

If the Size of Household (line 9a) is:	and the number of income earners (line 9b) is:							
	0 or 1	2	3	4	5	6	7	8
	Self-Support Reserve Amount is:							
1	568	-	-	-	-	-	-	-
2	766	433	-	-	-	-	-	-
3	964	532	388	-	-	-	-	-
4	1,163	632	454	366	-	-	-	-
5	1,361	731	520	415	352	-	-	-
6	1,559	830	586	465	392	343	-	-
7	1,758	929	653	515	432	376	337	-
8	1,956	1,028	719	564	471	409	365	332

EXAMPLE:

Size of household = 5 (line 9a)
 Income earners = 3 (line 9b)
 Self Support Reserve = 520 (line 9c)

FIND THE SELF-SUPPORT RESERVE SEPARATELY FOR EACH PARENT.

**TABLE 2 - CHILD(REN)'S
PRIMARY NEED**

# OF CHILDREN	PRIMARY NEED
1	170
2	284
3	397
4	454
5	511
6	568
7	624
8	681

Add \$57 for each additional child.

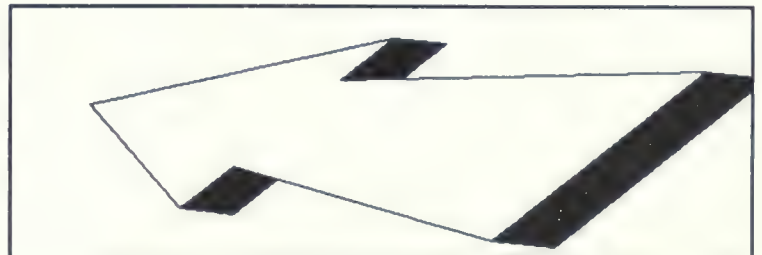


TABLE 3 - MINIMUM CONTRIBUTION

X SSR (line 9c)	A 1/3 of SSR	B 2/3 of SSR	C 3/3 of SSR	1 5% minimum	2 7% minimum
332	111	221	332	8	19
337	112	225	337	8	20
343	114	229	343	9	20
352	117	235	352	9	21
365	122	243	365	9	21
366	122	244	366	9	21
376	125	251	376	9	22
388	129	259	388	10	23
392	131	261	392	10	23
409	136	273	409	10	24
415	138	277	415	10	24
432	144	288	432	11	25
433	144	289	433	11	25
454	151	303	454	11	26
465	155	310	465	12	27
471	157	314	471	12	27
515	172	343	515	13	30
520	173	347	520	13	30
532	177	355	532	13	31
564	188	376	564	14	33
568	189	379	568	14	33
586	195	391	586	15	34
632	211	421	632	16	37
653	218	435	653	16	38
719	240	479	719	18	42
731	244	487	731	18	43
766	255	511	766	19	45
830	277	553	830	21	48
929	310	619	929	23	54
964	321	643	964	24	56
1,028	343	685	1,028	26	60
1,163	388	775	1,163	29	68
1,361	454	907	1,361	34	79
1,559	520	1,039	1,559	39	91
1,758	586	1,172	1,758	44	103
1,956	652	1,304	1,956	49	114

TABLE 3 INSTRUCTIONS

SSR = Self Support Reserve

Find the number in column X that is equal to the Self-Support Reserve shown on line 9c of the worksheet. That number identifies the line, left to right, to use in the following instructions.

1. If line 8 of the worksheet (Net Monthly Income) is less than the amount in column A, the minimum contribution is zero. Enter zero on line 24.

2. If line 8 income is greater than or equal to the amount in column A but less than the amount in column B, find the minimum contribution in column 1 and enter on line 24.

3. If line 8 income is greater than or equal to the amount in column B but less than the amount in column C, find the minimum contribution in column 2 and enter on line 24.

This calculation may have to be made separately for each parent, depending on income.

EXAMPLE:

Self-Support Reserve = 532 (line 9c)
 Net Monthly Income = 375 (line 8)
 Minimum Contribution = 31 (enter on line 24)

NOTE: Columns 1 and 2 represent calculations based on the applicable percentage applied to the midpoint of the range of columns A and B and columns B and C. More exact calculations may be made by following the procedures shown in the guidelines.

TABLE 4 - STANDARD OF LIVING ADJUSTMENT (SOLA)

If the amount on line 21		and the number of children from line 13 is:								
is at least	but not more than	1	2	3	4	5	6	7	8	9 +
		The SOLA amount is:								
0	50	4	5	7	8	9	10	11	12	13
51	100	11	16	20	23	26	29	32	35	38
101	150	18	26	34	39	44	49	54	59	63
151	200	25	37	47	54	61	68	75	82	88
201	250	32	47	61	70	79	88	97	106	113
251	300	39	58	74	85	96	107	115	129	138
301	350	46	68	88	101	114	127	140	153	163
351	400	53	79	101	116	131	146	161	176	188
401	450	60	89	115	132	149	166	183	200	213
451	500	67	100	128	147	166	185	204	223	238
501	550	74	110	142	163	184	205	226	247	263
551	600	81	121	155	178	201	224	247	270	288
601	650	88	131	169	194	219	244	269	294	313
651	700	95	142	182	209	236	263	290	317	338
701	750	102	152	196	225	254	283	312	341	363
751	800	109	163	209	240	271	302	333	364	388
801	850	116	173	223	256	289	322	355	388	413
851	900	123	184	236	271	306	341	376	411	438
901	950	130	194	250	287	324	361	398	435	463
951	1000	137	205	263	302	341	380	419	458	488

NOTE: SOLA amounts represent calculations based on the applicable percentage applied to the midpoint of the range of the numbers in the two columns on the left. More exact calculations may be made by following the procedures shown in the guidelines.

MONTANA CHILD SUPPORT GUIDELINES FINANCIAL AFFIDAVIT

INSTRUCTIONS FOR COMPLETING THIS FORM: This form is a legal document, and must be completed under oath. Provide complete information. If a question or statement does not apply to you, **DO NOT LEAVE BLANK.** Instead, mark it as "Not Applicable" or "N/A." Many questions can be answered by circling the correct answer. We ask that you give us your social security number on this form. No state law requires you to give us this number. We use these numbers to track cases on the computer and to apply payments to the correct case. We also use the numbers to locate assets and to enforce support obligations. In an enforcement action, the other party may discover social security numbers provided to the Child Support Enforcement Division (CSED).

A. PERSONAL INFORMATION

Name: _____ Social Security No. _____
Address: _____ Telephone No. () _____
_____ Date of Birth _____

1. Did you finish high school? ☐ Yes ☐ No

If no, indicate highest grade completed: _____

List all schools attended following high school. Include vocational-technical training school, college or university, trade school. Attach additional pages as needed.

Name	Course of Study	Completion Date	Degree/Diploma

B. CHILDREN FOR WHOM SUPPORT IS BEING CALCULATED

Child's Full Name	Date of Birth Month/Day/Year	Who does child live with?	Does child spend more than 110 days and nights each year with you? Specify.
			☐ Yes ☐ No _____ days/year
			☐ Yes ☐ No _____ days/year
			☐ Yes ☐ No _____ days/year
			☐ Yes ☐ No _____ days/year

Attach additional pages as needed.

1. Do any of the children listed above:

- have day care expenses? ☐ Yes ☐ No
- have on-going medical expenses? ☐ Yes ☐ No
- receive dependent's benefits, such as Social Security benefits, which are based on the earning record of one of the child(ren)'s parents? ☐ Yes ☐ No

If you answered "yes" to any of the questions, complete the table below. List the child's name in column "A." If applicable, indicate the actual or average monthly day care expenses in column "B." If applicable, indicate the actual or average monthly extraordinary medical expenses in column "C." If applicable, indicate the monthly benefit received, and the name of the parent whose earnings were the reason for the benefit in column "D." Attach additional pages as needed.

A	B	C	D
Child's Name	Day Care Costs	Extraordinary Medical Expenses	Dependent's Benefits Received
	\$_____ / month	\$_____ / month	\$_____ / month
	average actual	average actual	average actual
	\$_____ / month	\$_____ / month	\$_____ / month
	average actual	average actual	average actual
	\$_____ / month	\$_____ / month	\$_____ / month
	average actual	average actual	average actual
	\$_____ / month	\$_____ / month	\$_____ / month
	average actual	average actual	average actual

2. If applicable, do you receive reimbursement for:
- day care expenses? ☐ Yes ☐ No \$_____ / month reimbursement
- medical expenses? ☐ Yes ☐ No \$_____ / month reimbursement
3. If any of the children listed above have extraordinary on-going medical expenses, please describe the nature of the medical condition. Attach additional pages as needed. _____
- _____
- _____
- _____

C. CALCULATION OF HOUSEHOLD SIZE

List all the members of your household. **Do not include** the children for whom this support obligation is being calculated or any legal dependents who do not live with you. For the purposes of this calculation, "legal dependent" means natural or adopted minor children; special needs adult children; your spouse; persons for whom a court has appointed you guardian or conservator; your parents, if you claim them as dependents for income tax purposes; and yourself.

List the NAMES of household members in column "A." List your RELATIONSHIP to the household member in column "B." List the DATE OF BIRTH of the household member in column "C." Indicate if the household member is your LEGAL DEPENDENT by circling "yes" or "no" in column "D." Indicate if the household member earns INCOME by circling "yes" or "no" in column "E." Indicate if you are required by an order to pay SUPPORT for the household member in column "F." If the household member is BOTH a legal dependent AND earns income, circle "yes" in column "G." If the household member is EITHER a legal dependent OR earns income, but not both, circle "no" in column "G." Attach additional pages as needed.

A	B	C	D		E		F		G	
Name	Relation	Date of Birth	Legal Dependent?		Have Income?		Ordered Support?		Dependent and Income?	
SELF	SELF		<u>YES</u>	NO	YES	NO	YES	NO	YES	NO
			YES	NO	YES	NO	YES	NO	YES	NO
			YES	NO	YES	NO	YES	NO	YES	NO
			YES	NO	YES	NO	YES	NO	YES	NO
			YES	NO	YES	NO	YES	NO	YES	NO

Enter the number of "YES" answers
circled in each column

☐
☐
☐
☐

1. Add together the total number of "YES" answers in Columns D and E and enter here: _____
 2. Add together the total number of "YES" answers in Columns F and G and enter here: - _____
- Household Size** (Line 1 minus Line 2): _____

D. SUPPORT PROVIDED TO PERSONS WHO DO NOT LIVE IN THE HOUSEHOLD

Full Name	Date of Birth	Relationship	Monthly Amount

If necessary, attach additional pages. Attach a copy of any order requiring you to pay support.

E. INFORMATION ABOUT CURRENT EMPLOYMENT

1. Are you currently employed? ☐ Yes ☐ No
 If you answered "Yes," complete this section.
 If you answered "No," skip to Section F.

2. Do you work at more than one job? ☐ Yes ☐ No

Information about your current employer(s):

Employer's Name, Address and Telephone Number	Date Employment Began	Hours Worked Each Week	Permanent or Temporary?	If Temporary, Date Employ- ment Ends

Continued on page 4.

Employer's Name, Address and Telephone Number	Date Employment Began	Hours Worked Each Week	Permanent or Temporary?	If Temporary, Date Employ- ment Ends

If you have more current employers, attach additional pages.

3. What kind of work do you do for your employer(s)? _____

What is the normal pay for this kind of work? _____

4. Do you belong to a union? ☐ Yes ☐ No

If yes, name and address of your union local: _____

5. Is health insurance available to you through your employer or through a union? ☐ Yes ☐ No

If yes, is your child(ren) covered? ☐ Yes ☐ No

Names of children covered: _____

6. Do you receive workers' compensation, or occupational disease benefits? ☐ Yes ☐ No

If yes, name of state, agency, insurer or employer paying those benefits: _____

Claim Number: _____

If no, are you currently seeking workers' compensation benefits, or occupational disease benefits?

☐ Yes ☐ No

7. Are you negotiating for a lump-sum settlement? ☐ Yes ☐ No

Information about your past three employers:

Name, Address, Telephone Number	Date Employment Began	Hours Worked Each Week	Permanent or Temporary?	Date Work Ended

8. What kind of work did you do for these employers? _____

What was the normal pay for this kind of work? _____

9. Do you receive unemployment benefits? ☐ Yes ☐ No

If yes, name of state or agency paying those benefits: _____

If you completed Section E, skip to Section G.

SECTION F: INFORMATION ABOUT UNEMPLOYED PARENT

Information about your past three employers:

Name, Address, Telephone Number	Date Employment Began	Hours Worked Each Week	Permanent or Temporary?	Date Work Ended

1. Do you receive unemployment benefits? ☐ Yes ☐ No

If yes, name of state or agency paying those benefits: _____

2. What efforts have you made to find employment? **Describe your job search. Attach additional pages as needed.** _____

3. Do you belong to a union? ☐ Yes ☐ No

If yes, name and address of your union local: _____

4. Does your union offer health insurance? ☐ Yes ☐ No

If yes, is your child(ren) covered? ☐ Yes ☐ No

Names of children covered: _____

G. INCOME INFORMATION

List all income which you now receive. **You MUST attach copies of pay stubs for the last three months, and W-2 forms for the past two years.** If you do not have pay stubs or W-2 forms, provide an employer's statement. You may also attach complete copies of federal income tax returns filed in each of the preceding two years. If you provide tax returns, include all schedules filed. Persons who are self-employed must attach federal income tax returns, including all schedules, filed in the preceding two years. If you receive a type of income not specifically listed, specify and describe, listing amount and frequency. Attach additional pages as needed.

Income Source	Amount	How Often Received?	Income Source	Amount	How Often Received?
Gross Pay			AFDC Payments		
Unemployment			Food Stamps		
Workers' Compensation			Other Public Assistance		
Social Security Benefits			Veterans' Disability		
Retirement			Spousal Support		
Rents			Contract Receipts		
Interest Income			Dividend Income		
Bonuses			Reimbursements		
Current Spouse's/ Partner's Income			Dependents' Income		
Other: _____			Other: _____		
Profit < Loss > from Self-Employment			Fringe Benefits: _____		

1. Do you receive any non-money pay from your employer, such as housing, groceries, meat, car or truck, utilities, phone service? ☐ Yes ☐ No
 If yes, describe the non-money pay you receive, how often you receive it, and the value of the benefit: _____

Attach additional pages as needed.

If you reported profit or loss from self-employment, answer the following questions. Attach additional pages as needed.

2. Describe your self-employment activities: _____
3. How many hours per week do you spend engaged in self-employment activities? _____
4. Are your self-employment activities the primary source of your income for meeting your living expenses? ☐ Yes ☐ No
5. Do you receive loans to meet operating expenses for your self-employment activity?
☐ Yes ☐ No

H. DEDUCTIONS FROM INCOME

Taxes and FICA deductions will be determined according to the appropriate withholding tables. Other mandatory deductions or expenses should be listed here, including the amount of the deduction or expense, and how often the deduction or expense is incurred. Include expenses for mandatory uniforms or work-related equipment.

Attach proof of expenses listed.

DEDUCTION	AMOUNT	HOW OFTEN PAID?
Federal Income Tax		
State Income Tax		
FICA and Medicare		
Union Dues		
Retirement		
Health Insurance		
Other: _____		

If other mandatory deductions are made from your pay, attach additional pages as needed.

I. OTHER DEDUCTIBLE EXPENSES

Attach proof of all expenses claimed.

1. Do you have any extraordinary medical expenses for yourself, not reimbursed by insurance, your employer, or another, which are necessary for you to maintain your health or your earning capacity?
- ☐ Yes ☐ No

If yes, describe fully, including the nature and amount of the expenses. Indicate whether the amounts are actual monthly costs, or represent average monthly costs, based on past expenses:

Attach additional pages as needed.

2. Do you pay for child care, or in-home nursing care, or similar items on behalf of household members who are also your legal dependents? ☐ Yes ☐ No

If yes:

- is the expense necessary to allow you to work? ☐ Yes ☐ No
- do you receive any reimbursement of the expenses from insurance, your employer, or another source? ☐ Yes ☐ No

If you answered "yes" to either question, describe fully, including the nature and amount of the expenses, and the dependent for whom the expense is incurred. Indicate whether the amounts are actual monthly costs, or represent average monthly costs, based on past expenses:

Attach additional pages as needed.

J. OTHER MONTHLY EXPENSES

Expense	Amount	Expense	Amount
Housing		Clothing	
Utilities		Insurance Premiums	
Food, Household Supplies		Entertainment	
Transportation		Court-Ordered Payments	
Dependents' Education Names: _____		Uninsured Health-Related Not Described Above	
Personal Education		All Other Payments	

K. ASSETS

Please list all of your assets. Include those where your ownership interest is less than 100%. If your ownership interest in an asset is not 100%, please indicate the percentage of your interest in the asset. For all assets, indicate their approximate value. If you owe money on the asset, list the amount remaining to be paid by you, and the person or entity to whom you make payments.

Asset	Description and Location of Asset	Fair Market Value	Amount Owed & To Whom Owed
Checking Account(s)	Bank: _____	Balance: _____	
	Acct.No.: _____		
Savings Account(s)	Bank: _____	Balance: _____	
	Acct.No.: _____		
Cash on Hand			
Savings Bonds			
Stocks/Bonds/CD's			
Home			
Other Real Estate			
Auto No. 1			
Auto No. 2			
Truck/Motorcycle			
Trailer/Camper/RV			
Boat/Snowmobile			
Retirement Account(s)			
Cash-Value Life Insurance			
Farm/Business Equipment			
Livestock/Poultry			
Other: _____			

List all other assets on a separate page, describing their location and fair market value in full.

1. Have you, in the past 12 months, received any prize, award, settlement or other one-time cash payment whose value has not been included in the above assets? ☐ Yes ☐ No

If yes, describe the payment, including the amount and its present location and value:

L. GROUNDS FOR DEVIATION/VARIANCE FROM THE GUIDELINES

In some cases, application of the guidelines may result in a child support amount which is not completely fair. A variation from the guideline amount may be proper. Specific findings of fact which support the variation must be made. A variation may decrease or increase the support amount, depending on the reason for the variation.

Do you claim any of the following factors as a reason to vary from the strict application of the guidelines? Check any boxes that apply:

- ☐ in the course of a dissolution of marriage, a property distribution between the parents or to the child was made instead of support.
- ☐ educational expenses for the child(ren) who is the subject of this calculation.
- ☐ specific facts under MCA § 40-4-204 or § 40-6-116(5) which show that application of the guidelines is inequitable.
- ☒ cost of living differential based upon the geographical location of the parties.
- ☐ the physical residence of the child is with a third party not a parent.
- ☐ parent's overall financial condition.
- ☐ the custodial parent and child(ren) occupy the former family home free of charge or at substantially reduced costs.
- ☐ the non-custodial parent has been allotted the dependent tax deduction(s).
- ☐ the costs of supporting older children require an adjustment.
- ☐ the costs of long-distance visitation require an adjustment.
- ☐ the child is a professional or is engaged in some money-making activity, and earns a large sum of money.

IF YOU CHECKED **ANY** OF THESE BOXES, YOU MUST EXPLAIN YOUR REASONS FOR CLAIMING A DEVIATION. You must provide sufficient factual detail to support your claim. If you fail to provide this detail, your claim cannot be considered. Attach additional pages as needed.

Reasons for claiming a deviation from the guidelines:

VERIFICATION:

STATE OF _____)
County of _____) ss.

I declare, subject to penalties for perjury and false swearing, that I have read the foregoing affidavit and that the information contained in it and in any attachments to it is true and correct to the best of my knowledge, information and belief.

DATED this _____ day of _____, 19____.

Affiant

SUBSCRIBED AND SWORN TO before me, a Notary Public for this State and the date and place written above.

(SEAL)

NOTARY PUBLIC

Residing at: _____

My Commission Expires: _____

DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION



STAN STEPHENS
GOVERNOR

JULIA E. ROBINSON
DIRECTOR

STATE OF MONTANA

FAX # (406) 444-1370

P.O. BOX 5955
HELENA, MONTANA 59604

TO: All Child Support Enforcement Manual Holders

DATE: 13 July, 1992

SUBJECT: MANUAL REVISIONS AND FORMS
- Administrative Modification of Support Orders

Attached are revised manual pages and forms for modification of support orders at the request of a custodian, an absent parent or the CSED. Legislation effective October 1, 1991, granted the CSED authority to register, review and modify support orders originally issued by Montana District Courts and the Courts and IV-D agencies of other States, nations and Indian tribes. Once an order has been registered with the CSED, the CSED Hearing Officer can review and modify the support and health insurance provisions of any support order. There is no longer any difference between the procedures used to handle administrative orders and Court orders.

Manual Section CS 408.1 contains an overview of the law and procedures used in modifying support orders. Manual Section CS 408.3 contains the procedures for responding to requests for modification from Absent Parents and Custodians of children in IV-D cases. The Family Support Act of 1988 requires all IV-D agencies to entertain requests for increases and decreases in the amount of support. Manual section CS 408.5 contains the standards and procedures for use by the CSED in requesting modification of support orders. Federal regulations at 45 CFR § 303.31 require the CSED to modify support orders which do not require the absent parent to get and keep health insurance for the children.

The CSED will implement Administrative Modification of Support Orders in two phases. The first phase will include requests from parties (limited to parents, legal custodians and other IV-D agencies), and cases in which the State has a compelling interest. The first phase will be conducted using the procedures described at manual section CS 408.3. When Montana implements the second phase, it will include the initiation of periodic review and modification of all support orders. Second phase reviews will be conducted using the procedures described at manual section CS 408.5. Further discussion of Administrative Modification of Support Orders in this memo involves only first phase cases.

The CSED will conduct administrative modifications using the procedure described at manual section 408.3 when contacted by the parties or when, during the normal course of case work, cases involving the following circumstances are discovered.

The following are some of the reasons upon which an administrative modification of a support order may be requested:

1. Social security benefits paid to the children as a result of the absent parent's eligibility. Until April 1992, Montana law and the policy of the CSED was to allow credit against the support obligation for social security benefits paid to the children as a result of the absent parent's eligibility for social security. The Montana Supreme Court, in the case of In Re the Marriage of Durbin overturned previous Montana law. As a result of the Durbin ruling, benefits paid to the child because of the absent parent's eligibility for social security can be credited against the support obligation ONLY IF the support order specifically states credit is to be allowed. The CSED must conduct administrative modifications in cases where specific language authorizing credit for social security payments to the child is not contained in the support order. (Reference: Management Memo 92-02.4)
2. Zero orders. In AFDC cases only, the CSED will initiate administrative modifications in cases where the support order is zero or orders for \$49.00 per month per child or less that are not guidelines calculations.
3. Consolidation of existing multiple or conflicting orders. In AFDC cases only, the CSED will initiate administrative modifications in cases involving the same custodian, same absent parent, but separate orders for multiple children. In all cases, CSED will initiate modifications in cases in which a subsequent court order fails to refer to a prior administrative order, and the support obligation set by the court is inconsistent with the guidelines.
4. Existing order is grossly unconscionable. In AFDC cases only, the CSED will initiate administrative modifications in cases where the CSED file contains recent financial information which indicates that the existing order is grossly out-of-line with the uniform child support guidelines.

Montana Code Annotated 40-5-271, 40-5-272 and 40-5-273 provide the statutory authority for Administrative Modification of Support Orders. All support orders issued by the CSED will be filed with the registry. In addition, by filing an order issued by a court or another administrative agency with the registry, the CSED obtains jurisdiction to modify that order. Expected manual section at CS 405.5 describes the process for registration of orders. Tribal Court orders may be registered if the case meets the CSED policy requirements for establishing a support order. Until this policy has been published, DO NOT attempt to register Tribal Court orders with the registry for the purpose of administrative modifications.

The CSED will accept requests for administrative modifications only from parents, legal guardians and other IV-D agencies. Third party custodians who do not have legal custody are not eligible to request administrative modifications.

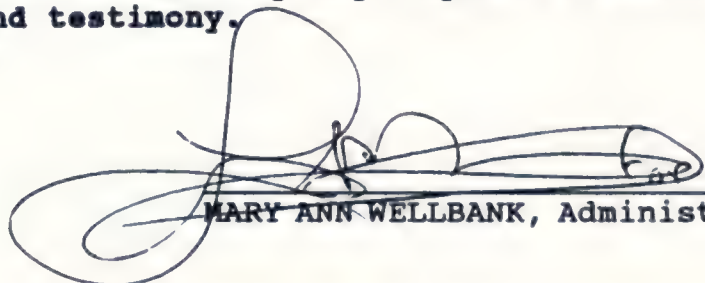
It is likely that the CSED will receive requests for administrative modifications in cases where the location of the other party is unknown. The request must be processed as far as possible, and locate attempts initiated. When the other party is located, the review must be reactivated and completed.

The procedures in the attached manual sections are designed to provide general instruction and direction. Situations that appear to be unusual should be discussed with the Regional Supervisor or Staff Attorney. However, some questions have already been brought to my attention. The questions and answers are listed below:

- Q: Do we take modification request at face value or do we want to communicate with the requesting party (ex: you have not provided X, Y and Z) before denying the request? What if we deny a modification because the Custodian did not supply enough information? If she then requests a judicial review will we be reprimanded by a District Court Judge?
- A: Please don't borrow trouble. The process is designed to be fair, to be easily understood by and available to the parties and to reduce the need for parties to be represented by counsel. If the request is incomplete and cannot be easily remedied, it should be denied.
- Q: Do we simply confirm what she has given us or do we do investigation? What about things we are not able to confirm?
- A: The caseworker should use information readily available from regional sources to confirm and gather information before completing the guidelines calculations. The Notice Concerning Modification Request will include a copy of the guidelines calculation prepared by the CSED using information available (whether confirmed or not) and a blank worksheet for use by the parties to compute their own calculation. If parties do not agree with the information provided, they can contest the information at a hearing.
- Q: What about confidentiality with in-house sources such as PJustice, ESD, tax fiche, income tax information? Can we use and show this information in determinations? What happens when the information we find differs from the information that was provided? How do we substantiate our information if it was obtained from in-house sources?

- A: The CSED should use all information readily available from regional sources. It is not necessary to disclose the source of the information unless the matter proceeds to hearing. If the information is subpoenaed, it must be obtained from the official responsible for maintaining the records, as would be required under the rules of evidence. Remember that the parties will have the opportunity to challenge the caseworker's guidelines calculations by completing their own worksheet and by providing evidence and testimony at the hearing.
- Q: Is there going to be an informal modification process? Is there any room for voluntary negotiation between parties at either the Investigator or Hearings Officer level?
- A: The guidelines must be applied in all cases. The Modification Consent Order can be used at any time before the hearing. Only the Hearings Officer has the authority to find an exception to or variance from the guidelines.
- Q: Why do we send certified copies of the debt computation worksheet to the hearings office when a hearing has been requested?
- A: So that the Hearings Officer has sufficient information to determine past payment history in the event a motion for exception to the immediate income withholding provisions is made.
- Q: Do "foreign" orders have to be registered in District Court first and then through the CSED?
- A: No. All orders are registered directly with the CSED.
- Q: If orders are registered with the CSED, does that give both CSED and District Court the authority to modify?
- A: Yes, however, any modification by the CSED after the registration is abstracted to Montana District Court. A courtesy notice of the modification is filed in "foreign" courts and Tribal Courts in Montana.
- Q: Is the last paragraph in CS 408.1 to let people out of income withholding, or is this just to allow people to close case with CSED?
- A: Please refer to Management Memo 91-06.3. Administrative Modification of Support Orders is designed to allow parties the opportunity to seek modification of orders issued between 1/1/90 and 4/24/91 which required payments to be made to CSED. Only the Hearings Officer can find an exception to the income withholding provisions as described at MCA 40-4-204, 40-5-315 and 40-5-411.

- Q: Can a modification of medical only or child support only be requested?
- A: No. When a request for administrative modification is received by the CSED, the entire support order will be reviewed for modification.
- Q: Are we initiating modification procedures to establish medical support orders on all orders?
- A: Not until phase two is implemented.
- Q: Since the Non-AFDC applicant can opt out of medical support enforcement services, will we be required to establish an order for health insurance while conducting administrative modifications even if the custodial parent does not want that service?
- A: For non-AFDC non-Medicaid applicants who opt out of medical support enforcement services, we will not be required to establish orders for health insurance while conducting modifications reviews. Non-AFDC, Medicaid-only applicants, however, may not opt out of medical support enforcement services, so we will be required to establish orders for health insurance even in cases where the custodial party does not want the service.
- Q: Do we review files every 10 months until such time as a modification is done and then only review every 3 years?
- A: Cases reviewed during the first phase of our implementation of Administrative Modification of Support Orders will be eligible for review once each year. Although the federal regulations concerning modification have not yet been finalized and published, it is likely that cases reviewed during the second phase will require review only once every 3 years.
- Q: What if either or both parties have no income or assets? What if the requesting party does not have any financial information about the other party?
- A: In the absence of actual financial information, the CSED will impute at minimum wage or at a rate commensurate with the person's education and experience. If either party contests the guidelines calculations, they may request a hearing and present evidence and testimony.



MARY ANN WELLBANK, Administrator

Instructions for Manual Maintenance:

REMOVE AND DESTROY

✓ Section CS 408.1,
"Modifying Support
Orders -- Overview,"
pp. 1-2

Section CS 408.3,
"Modifying Administrative
Support Orders -- At CSED
Request," pp. 1-10

✓ Section CS 408.5,
"Modifying Administrative
Orders -- At Parties
Request," pp. 1-27

Section CS 408.7,
"Modifying Judicial Support
Orders -- At CSED Request,"
pp. 1-3

✓ Section CS 408.9,
"Modifying Judicial Support
Orders -- At Parties Request,"
pp. 1-10

INSERT

✓ Section CS 408.1,
"Modifying Support
Orders -- Overview,"
pp. 1-2

Section CS 408.3,
"Modifying Support
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✓ Section CS 408.5,
"Modifying Support
Orders -- At CSED
Request," pp. 1-9

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	Strike out: "(10/1/89)"
	Insert: "(7/7/92)"
408.3	Strike out: "Modifying Administrative Support Orders -- At CSED Request (10/1/89)"
	Insert: "Modifying Support Orders -- At Parties Request (7/7/92) pp 1-14"
408.5	Strike out: "Modifying Administrative Support Orders -- At Parties Request (10/1/89), pp 1-10"
	Insert: "Modifying Support Orders -- At CSED Request (7/7/92), pp 1-9"
408.7	Strike out: "Modifying Judicial Support Orders - - At CSED Request (10/1/89)"
408.9	Strike out: "Modifying Judicial Support Orders - - At CSED Request (10/1/89)"

CHILD SUPPORT ENFORCEMENT

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Department of Revenue

SECTION:

SINGLE AND SEPARATE
ORGANIZATIONAL UNIT

CHILD SUPPORT ENFORCEMENT

SUBJECT:

History of Child Support
Enforcement Program

History of child support at the federal level.

Although the Title IV-D Child Support Enforcement Program was not enacted until 1975, concern for enforcing child support obligations has existed throughout the existence of what is now known as the Aid to Families with Dependent Children (AFDC) Program. The original intention of the AFDC Program was only to assist widows and children who were impoverished by the death of their husbands and fathers. Currently only a small fraction (approximately 2%) of the families on AFDC are eligible for benefits due to the death of the husband or father. Approximately 98% are participating in the AFDC Program for reasons other than what it was intended.

Therefore, provisions to provide assistance to families abandoned by one or both parents were made a part of the program by recognition of both financial and familial problems. Congress, in 1950, passed the first legislation requiring state welfare agencies to notify appropriate law enforcement officials if children receiving AFDC benefits were either deserted or abandoned by a parent and to require the mother to take legal steps against the father. Further laws were passed in 1965 and 1967, but society-wide changes in family structure soon made it apparent that additional legislation was needed.

According to the U.S. Bureau of Census the divorce ratio has more than doubled from 1970 to 1980 and more than tripled since 1960. It is estimated that by the year 2000 only one half or 50% of children born in the U.S. will have spent their entire life with both parents. In 1982 20% of the 62.4 million American children were living with their mothers only, and over one-third of these female-headed families were below the poverty level.

The escalating problem of children not being supported prompted the federal government to completely overhaul their approach to nonsupport in the early 70's, culminating in the passage of Title IV, Part D of the Social Security Act in 1974/75. Under this new section, federal money was made available to assist in this activity. Along with the federal funds went federal regulations that mandated the states to take positive steps to collect child support. The major areas in which states were required to perform were: location of absent parents, establishing paternity, establishing support orders, enforcing payment of support, and distributing collected child support.

SECTION:

SINGLE AND SEPARATE
ORGANIZATIONAL UNIT

SUBJECT:

History of Child Support
Enforcement Program

Several changes were made to the original IV-D legislation and regulations between 1975 and 1984. These include: garnishment of federal wages for child support delinquencies; medical support enforcement; program funding; and, perhaps most important, provisions for the interception of unemployment insurance benefits and federal income tax refunds for child support obligations.

After nine years of identifying the more successful techniques being used in the collection of child support, Congress passed the Child Support Enforcement Amendments of 1984. These amendments addressed two areas that had continually been seen as enforcement problems. The first was the interstate enforcement and collection of child support and the second was collection of child support for that segment of the population not eligible for welfare or who, for what ever reason, did not have legal assistance from the private sector. The Child Support Amendments of 1984 are an attempt to generate a clear signal that the payment of child support was an obligation that would not be ignored. Regardless of where one lives within the United States, the federal government, through its state child support enforcement programs, is going to insure that those who are obligated to pay, will in fact pay.

The three most significant requirements of the Child Support Enforcement Amendments of 1984 are: 1) mandatory wage withholding when the unpaid child support is more than the amount due for one month; 2) child support agencies must establish and enforce orders against obligors living in their state when the obligee resides in another state (including assistance to other states in implementing and enforcing wage withholding requests); and 3) extending the full range of collection tools to families not receiving welfare payments.

The child support issue will continue to require close monitoring in the years to come because of the increasing number of divorces, the number of single parents who have been awarded child support, and the social problem of unpaid child support which is estimated to be \$4 billion each year. Until parents understand and accept the financial responsibility associated with parenthood, someone will have to intervene to protect the children.

It is the position of the Office of Child Support Enforcement that children must be financially cared for and that they are worth every penny.

SECTION:

SINGLE AND SEPARATE
ORGANIZATIONAL UNIT

SUBJECT:

History of Child Support
Enforcement Program

History of child support at the state level.

The Montana Child Support Enforcement Program was established in 1975 as a result of a federal demand that all states assist in the enforcement of support. The Program was designated as the State IV-D Agency. The designation, which was required by the federal government, was used to identify the Program with the federal laws that governed it. The IV-D referred to Title IV Part D of the Social Security Act in which the federal child support statutes are contained.

The Montana Program was placed in the Department of Revenue as a single and separate unit created for the purpose of dealing with child support matters only. Most other states placed their IV-D Programs in the Human Service areas or welfare agencies. However, the desire in Montana at that time was to place the function with the Department of Revenue which was previously doing the investigation of welfare fraud. The Program has remained with the Department of Revenue ever since.

The Child Support Enforcement Program began in September 1975 with a staff of thirteen people in five regional offices and a central office located in Helena. In the first federal fiscal year, from October 1, 1975 to September 30, 1976 the Program generated \$455,706.35 in collections of which \$196,793 was AFDC money or reimbursement for welfare paid.

Program revenue continued to grow as the Program refined its collection techniques. In 1980, the Montana legislature made available to the Program an administrative process for use in establishing child support orders. At the same time the legislature allowed the Child Support Enforcement Program to utilize the same collection techniques as the Department of Revenue uses for collecting delinquent income taxes, specifically the warrant for distraint and notice of levy.

The Program matured in both collections and staff. In 1983 the Program consisted of 43 full-time equivalent staff (FTE's) who were located in the Helena Central Office, four regional offices and two satellite offices. The central office had grown from three FTE's to three separate units comprised of 11 FTE's. Collections continued to grow.

In fiscal year 1983 the Program collections had grown to \$641,644 in non-welfare collections and \$1,845,339 in welfare related AFDC collections for a total of \$2.48 million.

SECTION:

SINGLE AND SEPARATE
ORGANIZATIONAL UNIT

SUBJECT:

History of Child Support
Enforcement Program

There have been two major influences on the collection growth of the Program. At the state level, routine day-to-day case work was analyzed and prioritized to insure that work was generated in areas that proved to be the most productive. This 1982 study, called the Montana Project, was conducted by both state and federal child support staff. The major federal initiative effecting the Program was the Federal Tax Offset provisions of the Omnibus Budget Reconciliation Act of 1981. This legislation enabled states to direct the Internal Revenue Service to intercept any income tax refund due to an individual who owed child support in cases involving children on welfare. These refunds were forwarded to whichever state was enforcing the case and had certified the debt. The direct result was that income to the Montana Child Support Program from tax offsets rapidly grew to 25% of the Program's annual collections.

In 1985 the Montana legislature passed eight bills that were presented by the Child Support Enforcement Program which dealt with the Child Support Enforcement Amendments of 1984. In conjunction with the new laws, authority was received to increase the Program staff by 13 FTE's, expanding the total authorized strength to 54 FTE's.

The new laws and the additional staff brought organizational changes to better facilitate the federal requirements. The Helena Satellite office branched out to form a fifth region functioning as the Non AFDC and Interstate Enforcement Region.

The provision of legislative tools and committed staff make it obvious that the potential of this Program has yet to be more than partially realized. Any attempt to describe the Program's history is a quick glance at a moving object as the Program is and has always been going forward at a speed that appears to know no limits. Those who were involved in 1975 looked to 1985 with imagination and great optimism. Those who are part of the Program in 1985 look to 1995 with even more enthusiasm. We now have a record to be proud of and have accepted the challenge to improve on that record in the future.

SECTION:

SINGLE AND SEPARATE
ORGANIZATIONAL UNIT

SUBJECT:

History of Child Support
Enforcement Program

Child Support Enforcement Program Mission Statements

The purpose of the Child Support Enforcement Program is to provide services to private individuals and state agencies relating to problems in the areas of child support establishment, collections, enforcement and distribution.

The goals of the Program are: to assist those single parents in obtaining, on a regular basis, child support which they are entitled to or which has been ordered by the court; to collect from the obligor parents, child support as reimbursement to the state public assistance system for support paid in behalf of their children; and to provide ongoing support to help custodial parent get off the welfare rolls.

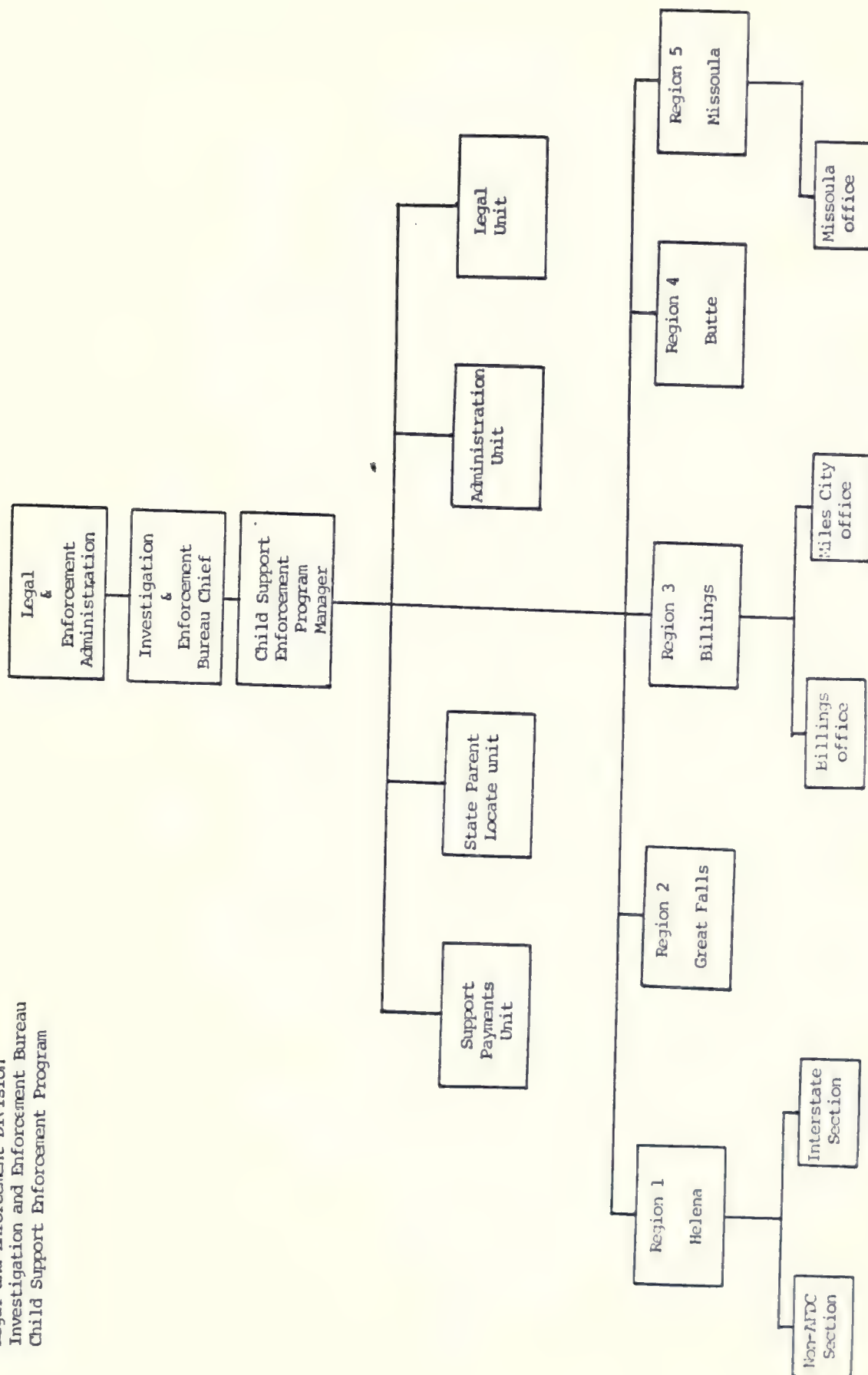
These functions are accomplished by collecting the maximum amount of money in the most efficient manner possible keeping in mind the Program's cost effectiveness ratio and the philosophy of working not just hard but smart.

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Department of Revenue
Legal and Enforcement Division
Investigation and Enforcement Bureau
Child Support Enforcement Program



Department of Revenue

SECTION:

SAFEGUARDING/SHARING
INFORMATION

CHILD SUPPORT ENFORCEMENT

SUBJECT:

Safeguarding Information

SAFEGUARDING
INFORMATION:

TYPES OF INFORMATION TO BE SAFEGUARDED--Include, but
are not limited to:

1. The names and addresses of applicants for or recipients of Child Support Enforcement services;
2. The names and addresses of absent parents;
3. Information related to the social and economic conditions or circumstances of a particular individual;
4. Bureau evaluation of information about a particular individual; and
5. Medical data, including diagnosis and past history of disease or disability, concerning a particular individual. 45 CFR 302.18

RESTRICTIONS ON USE OR DISCLOSURE OF INFORMATION--

The use or disclosure of information concerning applicants for or recipients of Child Support Enforcement services is restricted to purposes directly connected with:

1. The administration of the plan or program approved under parts A, B, C, or D of Title IV or under Titles II, X, XIV, XIX, or XX or the supplemental security income program established under Title XVI.
2. Any investigations, prosecution or criminal or civil proceedings conducted in connection with the administration of any such plan or program;
3. The administration of any other Federal or Federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need. 45 CFR 302.18.

SECTION:

SAFEGUARDING/SHARING
INFORMATION

SUBJECT:

Safeguarding Information

REQUESTS FOR
INFORMATION:

FROM GOVERNMENT AUTHORITY, COURT, OR LAW ENFORCEMENT AGENCY--Under a proper request, information concerning applicants for and recipients of Child Support Enforcement services will be released by the Bureau to a government authority, a court, or a law enforcement agency. However, the Bureau must accompany all such information with a notification of the confidentiality of the information and the penalty for misuse.

Proper Request--A statement in writing specifying the information desired and the use to which it will be put that is determined to be in accordance with State and Federal law by the Child Support Enforcement Bureau Chief.

Court Order, Subpoena, Discovery--Information must be released upon the request of other persons in the context of an administrative or judicial proceeding by court order, subpoena, discovery, or the like. If, for example, an applicant's or recipient's case record or a Child Support Enforcement Officer is subpoenaed, the CSEB Attorney is available for assistance.

APPLICANT'S OR RECIPIENT'S CONSENT--Whenever possible, the Bureau must inform the applicant or recipient of a request for information from an outside source and must obtain the applicant or recipient's permission to meet the request.

Outside Source--Does not include the Department of Social and Rehabilitation Services or other government authority, court, or law enforcement agency in legal and investigative actions concerning fraud, collection of child support, and third party medical recovery. (See "Sharing Information").

Emergency Situations--In an emergency situation when the individual's consent for the release of information cannot be obtained, he will be notified immediately thereafter.

SECTION

SAFEGUARDING/SHARING
INFORMATION

SUBJECT:

Safeguarding Information

REQUESTS FOR
INFORMATION
(Cont.)

MEDICAL INFORMATION--Both the applicant's or recipient's and the physician's or psychologist's permissions must be obtained before medical or psychological information can be released.

Release to Applicant or Recipient--Medical or psychological information directly concerning an applicant or recipient shall not be released to the applicant or recipient without a written statement from the attending physician or psychologist that release of the information will not cause medical or psychological harm to the applicant or recipient.

PROCEDURE:

Responsibility

ACTION

PROCESSING REQUESTS FOR SAFEGUARDED INFORMATION OTHER THAN MEDICAL--Information, other than medical, directly concerning the applicant or recipient may be provided to the applicant or recipient without further authorization.

- | | |
|-------------------------|---|
| .CSE Employee | 1. Acknowledge receipt of request, indicating that request has been forwarded to the CSEB Chief. |
| | 2. Send request to Child Support Enforcement Bureau Chief. |
| .CSEB Chief | 3. Determine whether request is "proper". |
| | 4A. <u>If Request is Not "Proper"</u> --Inform the requestor of the information that the request is not "Proper", the reasons why, and that the information will not be released. |
| | 4B. <u>If Request is "Proper"</u> --Obtain applicant's or recipient's permission to release the requested information. |
| .Applicant or Recipient | 5. Grant or deny permission to release the requested information. |

SECTION:

SAFEGUARDING/SHARING
INFORMATION

SUBJECT:

Safeguarding Information

.CSEB Chief

- 6A. If Permission is Denied--Inform the requestor of the information that the information cannot be released because the applicant or recipient denied permission for such release.
- 6B. If Permission is Granted--Send information to requestor, along with a notification of the confidentiality of the information and the penalty for misuse of such information (attach copy of CS 101.4, "Misuse of Case Information").

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Department of Revenue

SECTION:

SAFEGUARDING/SHARING
INFORMATION

CHILD SUPPORT ENFORCEMENT

SUBJECT:

Sharing Information

SHARING
INFORMATION:

FRAUD AND THIRD PARTY LIABILITY--The Bureau may release information on an applicant or recipient of child support services to the Department of Social and Rehabilitation Services or other governmental authority, court, or law enforcement agency in legal and investigative actions concerning fraud or third party liability without obtaining the applicant's or recipient's consent for such release.

COLLECTION OF CHILD SUPPORT--The Bureau may release information on an applicant or recipient of Child Support Enforcement services to the Department of Social and Rehabilitation Services or other government authority, court, or law enforcement agency in legal and investigative action concerning collection of child support without obtaining the applicant's or recipient's consent for such release. Information secured concerning absent parents may be shared with the Department of Social and Rehabilitation Services and the County Attorney or other appropriate governmental agency.

Disclosure of Confidential Information by the Department of Social and Rehabilitation Services--No information provided to the Department of SRS shall be disclosed except in accordance with the laws applicable to the source of the information provided.

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Department of Revenue

SECTION

SAFEGUARDING/SHARING
INFORMATION

CHILD SUPPORT ENFORCEMENT

SUBJECT:

Client Mailings

CHILD SUPPORT
MAILINGS:

LIMITATIONS--All materials sent or distributed to applicants or recipients, and absent parents including material enclosed in envelopes containing checks, must be limited to those which are directly related to the administration of the program and shall not have political implications.

Specifically Excluded from Mailings or Distribution--Materials such as "holiday" greetings, general public announcements, voting information, alien registration notices.

Not Prohibited from Such Mailing or Distribution--Materials in the immediate interest of the health and welfare of clients, such as free medical examinations availability of surplus food, and consumer protection information.

Names of Individuals--Only the names of persons directly connected with the administration of the program are contained in material sent or distributed to applicants, recipients, and vendors, and such persons are identified only in their official capacity with the State, Regional, or Local office.

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Department of Revenue

SECTION:

SAFEGUARDING/SHARING
INFORMATION

CHILD SUPPORT ENFORCEMENT

SUBJECT:

Misuse of Case Information

SUMMARY:

Presented are provisions of State law on misuse of public assistance information and information obtained by the Department of Revenue, including the legal sanctions imposed for improper disclosure and use.

MISUSE OF PUBLIC
ASSISTANCE
INFORMATION:

UNLAWFUL--It is "unlawful for any person, body, association, firm, corporation, or other agency to solicit, disclose, receive, make use of, or to authorize, knowingly permit, participate in, or acquiesce in the use of any lists or names for commercial or political purposes of any nature or for any purpose not directly connected with the administration of public assistance." Section 53-2-105, M.C.A.

PENALTY--"Any person, body, association, corporation, firm, or other agency who shall willfully or knowingly violate any provision of 53-2-105 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$25 or more than \$1,000, to which may be added imprisonment in the county jail for any determinate period not to exceed 60 days. If the violation is by other than an individual, the imprisonment may be adjusted against any officer, agent, employee, servant, or other person of the association, corporation, firm, or other agency who committed or participated in such violation and is found guilty thereof." Section 53-2-106, M.C.A.

MISUSE OF
DEPARTMENT
INFORMATION:

UNLAWFUL--"No information obtained by the department of revenue or its agents and attorneys as a result of an investigation shall be disclosed except in accordance with the laws applicable to the source of information, provided, however, such information may be used or disclosed as necessary in any court action." Section 53-2-504(1), M.C.A.

PENALTY--"Each employee violating the disclosure provisions shall be subject to the criminal charge and penalties applicable to the source of information" Section 53-2-504(2), M.C.A.

Department of Revenue

SECTION: MAINTENANCE OF RECORDS

CHILD SUPPORT ENFORCEMENT

SUBJECT: Records to Save and
Length of Retention

RECORD

RETENTION:

GENERAL RULE--Retain all records necessary for the proper and efficient operation of the IV-D state plan. 45CFR 302.15 and Section 2-6-205, MCA.

RECORDS MANAGEMENT--Conducted in accordance with Volume 1, Chapter 1300 of the Montana Operations Manual.

COVERED RECORDS--Those records regarding:

- . Non-AFDC applications for CSE services
- . Location of absent parents, actions to establish paternity, obtain and enforce child support, and the costs incurred in such actions
- . Amount and sources of child support collections and the distribution of these collections
- . Any fees charged or paid for support enforcement services
- . Any administrative costs
- . Statistical, fiscal, and other records necessary for reporting and accountability required by the Secretary of HHS

RETENTION

GUIDELINES:

FEDERAL REQUIREMENTS--Records are retained for a minimum period of 3 years. 45CFR 74.21(a).

Exception: If any dispute arises prior to the end of 3 years, the records are retained until the resolution of the problem or the end of 3 years, whichever is longer. 45 CFR 74.21(b).

SECTION: MAINTENANCE OF RECORDS

SUBJECT: Records to Save and
Length of RetentionRETENTION
GUIDELINES
(Cont.):

STATE REQUIREMENTS--Records are retained for a minimum period of 4 years. Some records require longer retention periods. (See Montana Operations Manual, Volume 1, Chapter 1300). Some important periods are presented here:

<u>Record Type</u>	<u>Retention Period</u>
. Garnishments	4 years
. Collection Reports	4 years
. Accounts Receivable	5 years
. Accounts Uncollectable	5 years
. Deposits, Reconciliations, Stop Payments	5 years

RETENTION
PERIOD:

STARTING DATE--All periods are figured on the federal fiscal year in which the records were created. Applying the fiscal retention system to records created in FY 80 with a retention of 4 years, the retention period ends October 1, 1984.

Federal FY 80 ends Sept. 30, 1980
+ 4
End of Retention is Oct. 1, 1984

Exceptions: Federal regulations may require specific adjustments in the following areas:

. Equipment Records	45 CFR 74.22(b)
. Records for income transactions after grant or subgrant report	45 CFR 74.22(c)
. Indirect cost rate proposals, cost allocation plans, etc.	45 CFR 74.22(d)

Department of Revenue

SECTION:

CONFLICT OF INTEREST

SUBJECT:

Child Support Enforcement
Program

CHILD SUPPORT ENFORCEMENT

SUMMARY: The Montana State Legislature has provided the Child Support Enforcement Program with broad powers to be used in collecting child support. Among these powers is the ability to seize and sell an individual's personal property to satisfy child support debts. Along with these discretionary powers come ethical responsibilities.

All governmental agencies are required to maintain the public trust and confidence by insuring that their operational activities are conducted for the benefit of the public. It is the responsibility of all governmental employees to conduct themselves in a manner that protects that trust and confidence.

POLICY: To avoid any conflict that could result from discretionary actions, it is the policy of the Child Support Enforcement Program that any Investigations & Enforcement Division employee involved, either directly or indirectly, with the decision to seize an individual's property for satisfaction of a child support debt, shall not participate directly or indirectly in the sale of that property as a bidder for purchase in their own behalf or the behalf of any other individual.

Compliance with this policy will insure CSEP actions are viewed as being in the furtherance of collection and not for personal gain.

November 7, 1994

BENEFITS BULLETIN

Benefits Table

The table shown on the reverse lists some government and quasi-government benefits often received by obligors, and tells how the CSED must treat each type of benefit in the course of daily casework. This information has been requested recently by a number of teams and individuals, and is important for determining (1) income included in Guidelines calculations, (2) income subject to withholding, and (3) case closure status. Please use the table as a "quick reference" guide for the specific benefit types listed. For benefit types not listed you may wish to consult your CSED staff attorney. Information contained in the table is considered CSED policy until revised or replaced.

For your information, benefits described in the first three rows of the table are sometimes referred to by their corresponding Titles under the Social Security Act:

SSI	= Title XVI
SSA	= Title II
SSDI	= Title II.

Instructions for Manual Maintenance

Place this Bulletin at the beginning of the Case Management unit (CS 200), directly in front of the Case Management Bulletin (9/19/94) recently distributed.

Add the following entry to the Table of Contents (page 2), immediately below the unit title, "CASE MANAGEMENT" and above the entry, "Case Management Bulletin (9/19/94) pp 1-8":

Benefits Bulletin (11/7/94) pp 1-2.

BENEFITS TABLE

OBLIGOR BENEFIT	INCOME FOR GUIDELINES? ¹	SUBJECT TO INCOME WITHHOLDING? ²	CASE SUBJECT TO CLOSURE?
SSI (Supplemental Security Income)	No.	No.	No. Check for other assets.
SSA (Old Age retirement income)	Yes.	Yes.	No.
SSDI (Social Security Disability)	Yes.	Yes.	No, but may be temporarily unworkable, as SSA defines as unable to work at any job.
US Military retirement	Yes.	Yes.	No.
Veterans' disability	Yes.	Maybe. If vet has waived a portion of retirement pay to receive disability, that portion of benefit is subject to withholding.	No.
Railroad Retirement	Yes.	No. QDRO required.	No.
Railroad disability benefits	Yes.	No.	No.
Federal workers' compensation	Yes.	Yes, that portion intended as wage replacement.	No.
MT Workers' compensation	Yes.	Yes.	No.
MT Unemployment benefits.	Yes.	Yes.	No.
Aid to Families with Dependent Children (AFDC)	No.	No.	No. Temporarily unworkable.
General Assistance (GA)	No.	No.	No. Temporarily unworkable.

¹ In general, if benefit eligibility is based on the person's financial condition, it is not included as income under the guidelines.

² In general, federal benefits based on past employment are subject to income withholding and/or garnishment for child support purposes.

April 17, 1995

CASE MANAGEMENT BULLETIN

Quick-Reference Guides

The following pages contain the current federal standards for program operations. These pages reflect the federal changes of last December, including (1) the new time frames for expedited process in support order and paternity establishment, and (2) the new approach to locate compliance, combining locate actions with those of the next logical case function, for audit purposes. Please note, these are the **federal** standards--CSED policies and procedures in some areas may impose additional or stricter requirements. Also note, where not otherwise specified, time frames listed are for the strictest audit standards for the activity; these are the standards the CSED must attempt to meet.

Instructions for Manual Maintenance

Insert this complete Bulletin (9 pages including "Standards for CSED Program Operations" and flow charts) at the beginning of the "Case Management" unit, directly in front of section CS 200.1; remove and destroy the blue Case Management Bulletin (with accompanying 8 blue pages) dated September 19, 1994.

Also insert the individual flow charts (duplicate copies provided) in the corresponding Manual units as follows, directly in front of the sections indicated:

- > Application and Case Establishment (CS 300.1)
- > Support Order Establishment and, if Necessary, Paternity Establishment (2 copies) (CS 400.1 and CS 600.1)
- > Enforcement (Other Than Income Withholding and Tax Offset) (CS 500.1)
- > Income Withholding through the Notice Process (CS 510.1)

Remove and destroy the salmon-colored flow charts at the above locations.

Revise the Table of Contents (page 2) by updating the entry for this Bulletin as follows:

STANDARDS FOR CSED PROGRAM OPERATIONS

- INTAKE**
- Send an application within 5 working days of written or telephone request. Immediately upon an in person request.[CFR 303.2(a)(2)]
 - 20 calendar days to open and establish case record. Determine next action.[CFR 303.2(b)]
- LOCATE**
- Within 75 calendar days of determining that location is necessary, access all appropriate location sources.[CFR 303.3(b)(3)]
 - Quarterly automated checks, or immediately upon receipt of new information.[CFR 303.3(b)(5)]
 - **Location requirements are considered part of PATERNITY AND SUPPORT ORDER ESTABLISHMENT, ORDER MODIFICATION, ORDER ENFORCEMENT, INCOME WITHHOLDING, and MEDICAL SUPPORT services.**
[CFR 305.20(a)(3)(ii)(iii)(iv)(v)]
- PATERNITY AND SUPPORT ORDER ESTABLISHMENT**
- Service within 90 calendar days of locate to establish a support order and, if necessary, paternity. [CFR 303.4(d)]
 - After obtaining service of process, regardless of whether paternity has been established, establish support order for following percentage of cases within each timeframe.
[CFR 303.101(b)(2)(i)(iii)]
- 75% in 6 months (or in 12 months if using long-arm)
90% in 12 months
- ORDER MODIFICATION**
- 15 calendar days after request, or order becomes 3 years old, determine if a review should be conducted.[CFR 303.8(e)(1)&(2)]
 - Within 180 calendar days of determining a review should be conducted or locating the non-requesting parent, whichever occurs later:
 - 1) notify the parties, at least 30 calendar days prior to the review, that a review will be conducted.
 - 2) conduct the support order review.
 - 3) notify the parties of the proposed adjustment or proposed determination that there should be no adjustment. Allow 30 calendar days for either party to initiate further review proceedings.
 - 4) adjust appropriate orders or make final determination that there will be no adjustment.
[CFR 303.8.(e)(3)(i)(ii)(iii)&(iv)]

4/17/95

**ENFORCEMENT
(Other than
Income Withholding
and Tax Offset)**

- Take any appropriate enforcement action (except income withholding and Federal and State income tax offset) unless service of process is necessary, within no more than 30 calendar days of identifying a delinquency or other support related noncompliance with the order or the locate of the Obligor, whichever occurs later.

[CFR 303.6(c)(2)]

- If service of process is necessary prior to taking an enforcement action, service must be completed (or unsuccessful attempts documented), and enforcement action taken if process is served, within no later than 60 calendar days of identifying a delinquency or other support-related noncompliance with the order, or the location of the Obligor, whichever occurs later. [CFR 303.6(c)(2)]

- note: appropriate enforcement action may include support liens, credit bureau reporting and writ of execution.

INCOME WITHHOLDING

**Initiated
Withholding**

- Issue notice within 15 calendar days of delinquency. [CFR 303.100(c)(2)]

- Delinquency is defined as arrearages greater than or equal to one month's support which accumulated after entry of a support order.

[CFR 303.100(c)(1)]

- Issue Order To Withhold Income within 45 calendar days of service in contested actions. [CFR 303.100(e)]

- Issue Order To Withhold Income within 15 calendar days of the end of the due process time period in an uncontested delinquency income withholding action. [CFR 303.100(f)(3)]

- note: for audit purposes, the above time frames assume that the Obligor has a payor.

**Automatic
Withholding**

- Issue Order To Withhold Income within 15 calendar days of locating employer if a notice is not required to be served on Obligor.

[CFR 303.100(f)(2)]

- note: for audit purposes, the above time frame assumes that the Obligor has a payor.

**Employer
Responsibilities**

- Employer must implement withholding no later than the first pay period that occurs after 14 working days after the Order to Withhold is mailed. [CFR 303.100(f)(1)(ix)]

- Employer must send withholding within 10 working days after the Obligor is paid and report the date on which the amount was withheld from the Obligor's wages.

[CFR 303.100(f)(1)(ii)]

4/17/95

MEDICAL SUPPORT

- New/Modified orders are required to have a medical insurance provision which requires the Obligor to purchase insurance if available and affordable.[CFR 302.56(c)(3)]

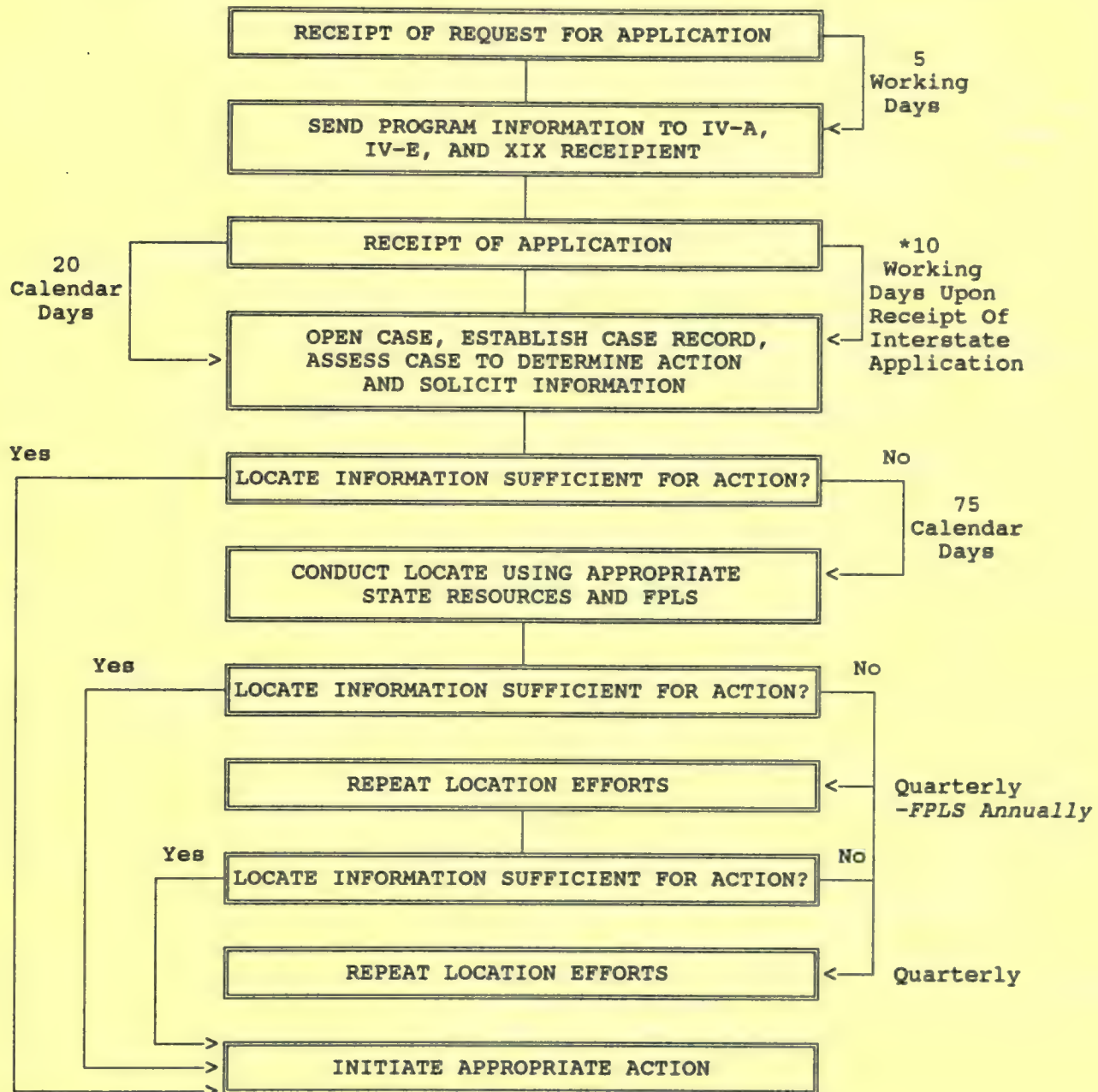
INTERSTATE SERVICES

- (Initiating State) Within 20 calendar days of locating Obligor in responding state, and, if appropriate, receipt of necessary information needed to process the case, issue referral.[CFR 303.7(b)(2)]
- Provide additional requested information within 30 calendar days.[CFR 303.7(b)(4)]
- Inform responding state of new information within 10 working days.[CFR 303.7(b)(5)]
- (Responding State) Open case in 10 working days.[CFR 303.7(a)(2)]
- Respond to case status requests within 5 working days.[CFR 303.7(a)(4)]
- Within 10 working days of locating the Obligor outside of Montana, inform the initiating state.[CFR 303.7(c)(6)]

DISTRIBUTION

(Other than for
tax offset)

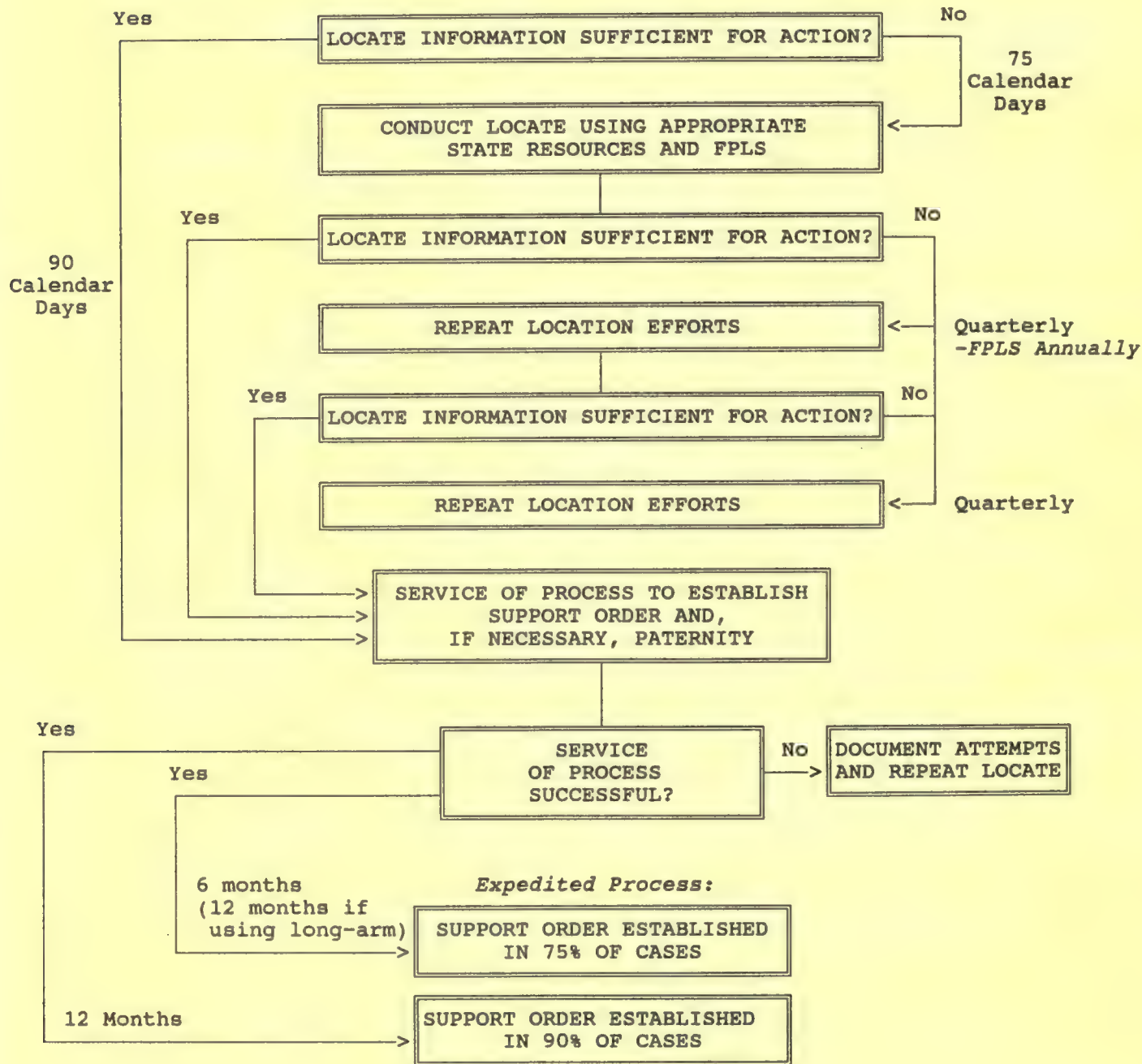
- 15 calendar days to send payment to NAFDC family.[CFR 302.32(f)(1)&(3)(i)&(ii)]
- 15 calendar days after the end of the month to send disregard payment of \$50 or, if less than \$50, amount received.[CFR 302.32(f)(2)(i)]
- note: CSED standards are stricter than federal standards, for payments greater than or equal to \$50 received before the end of the month.



- Send an application within 5 working days of written or telephone request. Immediately upon an in person request.[CFR 303.2(a)(2)]
- 20 calendar days to open and establish case record. Determine next action. [CFR 303.2(b)]
- *10 working days to open and establish case record upon receipt of an interstate referral.[CFR 303.7(a)(2)]

- Within 75 calendar days of determining that location is necessary, access all appropriate location sources.[CFR 303.3(b)(3)]
- Quarterly automated locate checks, or immediately upon receipt of new information.[CFR 303.3(b)(5)]

SUPPORT ORDER ESTABLISHMENT AND, IF NECESSARY, PATERNITY ESTABLISHMENT



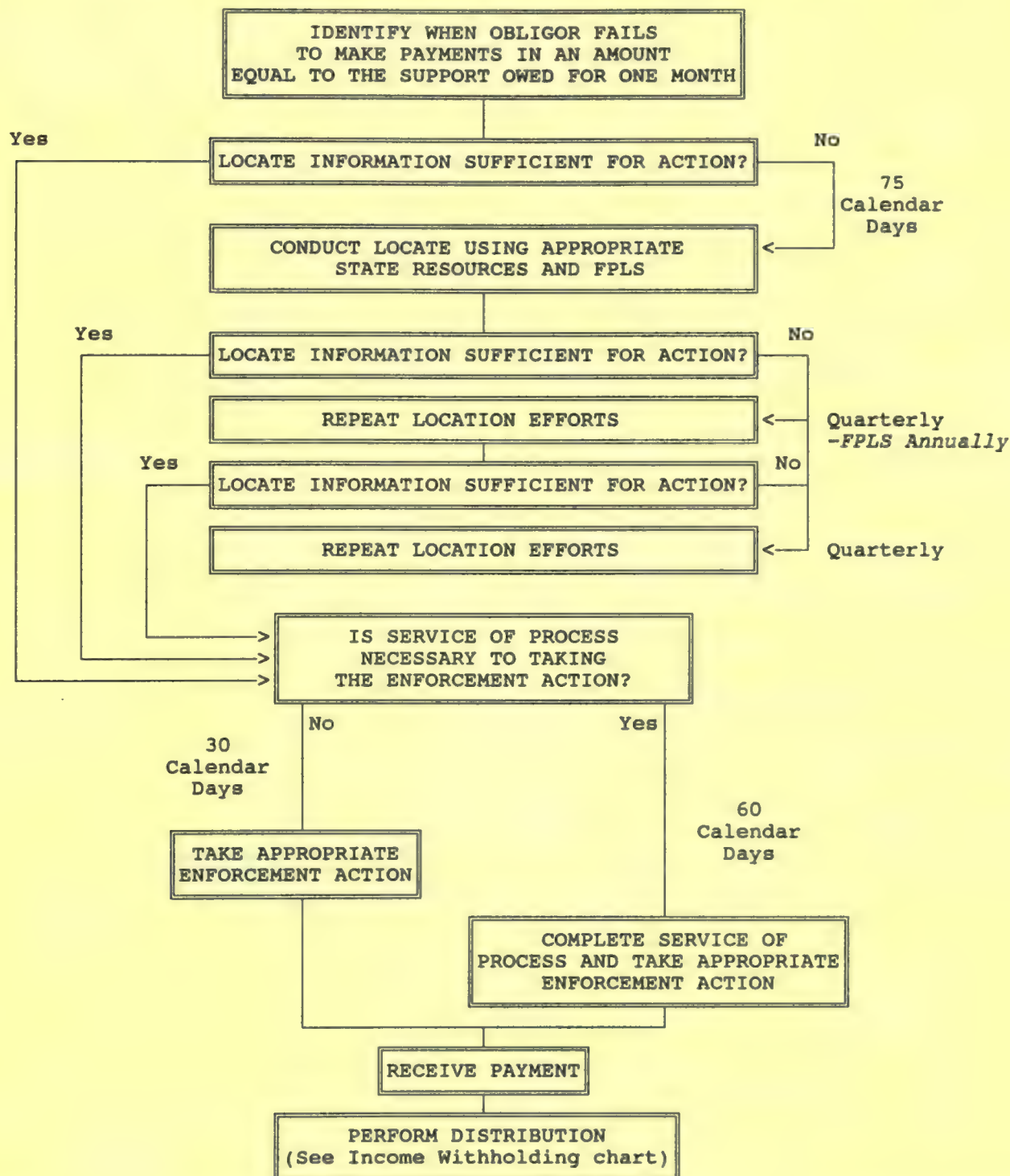
PATERNITY AND SUPPORT ORDER ESTABLISHMENT

- Service within 90 calendar days of locate to establish a support order and, if necessary, paternity. [CFR 303.4(d)]
- After obtaining service of process, regardless of whether paternity has been established, establish support order for following percentage of cases within each timeframe. [CFR 303.101(b)(i)(iii)]

75% in 6 months (or in 12 months if using long-arm)
90% in 12 months

ENFORCEMENT

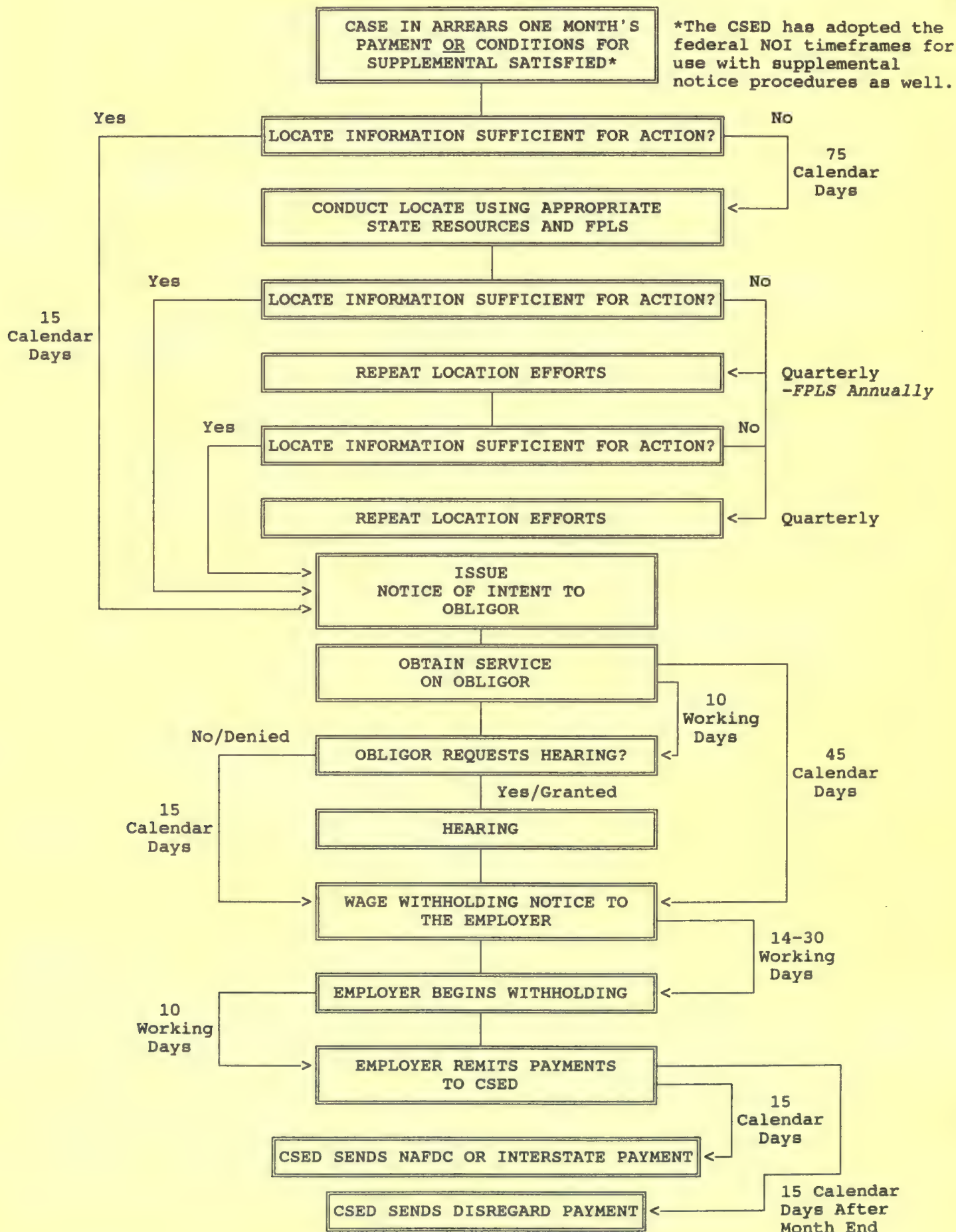
(OTHER THAN INCOME WITHHOLDING AND TAX OFFSET)



ENFORCEMENT (Other than Income Withholding and Tax Offset)

- Take any appropriate enforcement action (except income withholding and Federal and State income tax offset) unless service of process is necessary within no more than 30 days of identifying a delinquency or other support related noncompliance with the order or the locate of the Obligor, whichever occurs later. [CFR 303.6(c)(2)]
- If service of process is necessary prior to taking an enforcement action, service must be completed (or unsuccessful attempts documented), and enforcement action taken if process is served, within no later than 60 calendar days of identifying a delinquency or other support-related noncompliance with the order, or the location of the Obligor, whichever occurs later. [CFR 303.6(c)(2)]
- note: appropriate enforcement action may include support liens, credit bureau reporting and writ of execution.

INCOME WITHHOLDING THROUGH NOTICE PROCESS



INCOME WITHHOLDING

Initiated
Withholding

- Issue notice within 15 calendar days of delinquency.[CFR 303.100(c)(2)]
- Delinquency is defined as arrearages greater than or equal to one month's support which accumulated after entry of a support order.
[CFR 303.100(c)(1)]
- Issue Order To Withhold Income within 45 calendar days of service in contested actions.
[CFR 303.100(e)]
- Issue Order To Withhold Income within 15 calendar days of the end of the due process time period in an uncontested delinquency income withholding action.
[CFR 303.100(f)(3)]
- note: for audit purposes, the above time frames assume that the Obligor has a payor.

Employer
Responsibilities

- Employer must implement withholding no later than the first pay period that occurs after 14 working days after the Order to Withhold is mailed.
[CFR 303.100(f)(1)(ix)]
- Employer must send withholding within 10 working days after the Obligor is paid and report the date on which the amount was withheld from the Obligor's wages.
[CFR 303.100(f)(1)(ii)]

DISTRIBUTION
(Other than for
tax offset)

- 15 calendar days to send payment to NAFDC family.[CFR 302.32(f)(1)&(3)(i)&(ii)]
- 15 calendar days after the end of the month to send disregard payment of \$50 or, if less than \$50, amount received.[CFR 302.32(f)(2)(i)]
- note: CSED standards are stricter than federal standards, for payments greater than or equal to \$50 received before the end of the month.

Department of Revenue

SECTION:

NON-AFDC CLIENTS

SUBJECT:

NAFDC Caseload Processing

CS BULLETIN

TO: All Manual Holders

DATE: November 17, 1981

Introduction: The Helena Satellite Office assumes the responsibility for enforcing child support cases with a current NAFDC amount due on December 1, 1981. Those cases which contain both a current NAFDC amount due and a debt due the state (AFDC) are also enforced by the NAFDC Unit.

Effective Date: December 1, 1981

DEFINITIONS:

01 Account--Identifying code for an open AFDC account. The child to whom support is owed is a current recipient of AFDC.

02 Account--Identifying code for the specific amount of debt due the state by an obligor. The child for whom the support debt is owed was formerly an AFDC recipient. CSEB may be pursuing current support under a NAFDC account.

03 Account--Identifying code for an open Non-AFDC account. The child to whom support is owed is not currently receiving AFDC and an application for NAFDC services is in effect. CSEB may be simultaneously pursuing unpaid prior support as an 02 account.

NAFDC UNIT: CASE PROCESSING--All cases containing an open 03 account are enforced by the NAFDC Unit.

PROCEDURE:**Responsibility****ACTION**

.Central D. P.

1. Develop computer program to convert all open 03 accounts to Region 1.

EXAMPLE: The fields 24-27 on line 2 of Form CSA 10 for a Missoula County NAFDC identifier, convert from 5 532 to 1 132.

SECTION:

NON-AFDC CLIENTS

SUBJECT:

NAFDC Caseload Processing

2. Forward printout of Region 1 conversions to the Support Payments Unit.
- .Support Payments Unit 3. Forward Region 1 printout by county to appropriate field offices.
- .Field Staff 4. Forward case file, index card, and payment record for each case on printout to the NAFDC Unit by December 31, 1981.
5. If an active 03 account exists, but does not appear on Region 1 printout, examine state-wide alpha to determine if the account is closed;
- 5A. If the account is closed:
 - . Complete Form CSA 10 to reopen 03 account.
 - . Complete Form CSA 10 to change Region/County code to Region 1.
 - . Proceed as in Step 4 above.
- 5B. IF the account is not on the Statewide Alpha:
 - . Complete Form CSA 10 to open new 03 account in Region 1.
 - . Proceed as in Step 4 above.
6. When both an open 03 account and an open 02 account exist, forward both case files to NAFDC Unit.
7. When both a closed 03 account and an open 02 account exist, retain case file in field office.

Department of Revenue

SECTION:

OPENING A CASE FILE

CS BULLETIN

SUBJECT:

Assigning The Case Number

TO: All Manual Holders

DATE: November 17, 1981

Introduction: The procedure for assigning case numbers is modified as set forth below.

Effective Date: December 1, 1981

CASE NUMBER: IDENTIFIES SUPPORT RELATIONSHIP--Assign a case number to a CSE action based on the existence of a support duty or obligation. This number uniquely and universally identifies the support responsibility.

EXPLANATION: The case identifier does not take into account distribution issues, such as providing information on amounts subrogated or due the state verses those amounts due the obligee. The case number remains the same whether the client changes to AFDC or NAFDC.

EXAMPLE: Mary Jones' case file was assigned number CS 5173 when she divorced John Smith and received AFDC benefits with their child Suzy. Mary married Joe Jones and applied for NAFDC services. Her case file number remained the same. Mary divorced Joe and reapplied for AFDC benefits with Suzy and Joe's child, Mark. At this time, Mary Jones was assigned an additional case file number CS 7594 for the support obligation against Joe Jones.

ACCOUNT NUMBER: IDENTIFIES DISTRIBUTION ISSUES--The procedure for identifying amounts due the state uses the Absent Parents Social Security Number. The procedures for multi-account identification (e.g. AFDC subrogated debt identified separately from NAFDC arrearages) are described in the Support Payments Manual.

SECTION:

OPENING A CASE FILE

SUBJECT:

Assigning The Case Number

PROCEDURE:

Responsibility

ACTION

- | | |
|-------------------------|--|
| . Field Staff | 1. Phone Support Payments Unit to obtain block of consecutive case numbers to assign to CS case files. |
| . Support Payments Unit | 2. Assign a field office approximately 100 case file numbers in a series. |

NOTE: Do not change current NAFDC case numbers unless other account changes are being made.

Supercedes: CS 201.1 (12/1/80)

CS 201.1

Department of Revenue

section:

CASE STATUS

subject:

Case Management

CHILD SUPPORT ENFORCEMENT

POLICY:

CFR §305.20(a)(1) and (2) require that child support functions be carried out in all cases upon referral by the IV-A agency or upon application by the custodial relative for NAFDC IV-D services. To be found to be in "substantial compliance" with the audit criteria described in the regulations, the CSEP must show that it is taking action in 75% of all cases reviewed. There are four functions involved in day-to-day case handling which will lead to the receipt of collections.

Most IV-D cases opened by the CSEP will need action under at least one of these functions and, as they develop, they may move back and forth between functions as different activities are required. Initial and on-going review and classification are critical to assure that cases proceed to collection (or are identified as unworkable and closed).

LOCATION

When an obligor or an obligor's assets cannot be found, location action is required. If either cannot be located by a regional office utilizing in-office resource materials, location efforts may be turned over to the State Parent Locate Unit (SPLU) in Helena. The location process is detailed in the 300 division of the CSEP Manual, with an overview contained in Section 300.1.

PATERNITY ESTABLISHMENT

The obligation to provide support for a child applies only to the child's legal parents or other adults whose legal responsibility has been established by the courts. The CSEP normally participates in the process of establishing this legal responsibility only in paternity cases, not

section:

CASE STATUS

subject:

Case Management

adoptions, child custody, etc. This is detailed in the 600 division of the CSEP Manual, with an overview contained in Section 600.1.

OBLIGATION ESTABLISHMENT

The payment of AFDC benefits to a family based upon absence of one or both parents from the home creates a debt to the state of Montana. However, this debt must be adjudicated by a court or administrative agency to be enforceable. The CSEP is empowered to establish child support obligations administratively in both AFDC IV-D cases and NAFDC IV-D cases in which application has been made to the CSEP by the custodial relative. This process is detailed in the 400 division of the CSEP Manual, with an overview contained in Section 400.1.

ENFORCEMENT

When support rights have been assigned to the state and the obligor fails to make payment as directed, an enforcement action is needed. Several types of administrative enforcement actions are described in the 500 division of the CSEP Manual with an overview contained in Section 500.1.

CLASSIFICATION:

A system of codes (described in detail in Section CS 201.3) has been provided to enable anyone reviewing a case record to quickly and easily determine which actions may be needed to move the case to collection. Correct evaluation and classification of each case record is the pivotal step in its processing.

CASE REVIEW:

Since overall responsibility for compliance with collection goals and audit criteria rests with each regional supervisor, the supervisor must determine case classification in each office. This allows an overview of case potential at the earliest possible time and helps to assure that office resources are best utilized to accomplish program objectives.

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Ongoing review of each case for appropriate actions and follow-up rests with each CSEP employee handling the case. All open cases must be reviewed at least once annually to verify that all possible actions have been taken to secure collections.

When the child support obligation assigned to the state is paid in full or no collection is possible, the IV-D case should be closed and segregated from open cases to facilitate efficient case handling. The criteria for identifying closed case status are described in Section CS 201.5.

PROCEDURE:

Responsibility

ACTION

. Caseworker/
Typist/Sup-
ervisor

1. Receives new referrals/applications and checks to see if duplicate records already exist in the office's caseload, or elsewhere in the program.

- a. If a duplicate exists, notes the existing case number (requesting the case record from the appropriate office, if necessary); or,

- b. If no duplicate exists, notes that a new case must be opened.

. (Regional
Supervisor)

2. Checks each referral/ application for completeness, requesting additional material or information as necessary (e.g., missing pages, eligibility information, signatures, etc.).

3. Reviews each referral/application to determine whether the case is unworkable and should be closed. If not, identifies the next appropriate action needed, assigns a classification code in accordance with Section CS 201.3, notes the code in the lower right-hand corner of the top page,

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and delivers the referrals/applications to the Caseworker/Typist for opening.

4. Processes each referral/application:

a. For each case which is to be closed:

- Notes closure code on cross-reference card or makes up and annotates a new cross-reference card, as appropriate;
- Records case opening and closing statistics, (referring the file to the Supervisor for closure approval, if necessary).
- Places the new referral/application by itself, or combines with any referral/application previously received on the same case, in separate "closed file" storage, as appropriate.

b. For each case which is to be worked:

- Combines the new referral/application in the existing case file, or creates a new file jacket and label as appropriate;
- Records case opening statistics;
- Requests any necessary documentation for the case file (e.g., certified copies of court orders, birth certificates, etc.);
- Sends appropriate notification letters;
- Refers the file to the appropriate caseworker for action.

Department of Public Health and
Human Services

section:
CASE STATUS

CHILD SUPPORT ENFORCEMENT

subject:
Case Opening Letters

SUPERSEDES: [new section]

REFERENCES: MCA 40-5-202(1), 40-5-203(1) and (2), 40-5-205, 40-5-412(4), 40-5-909(2) through (5).

POLICY: Purpose of Case Opening Letters. When a case is opened or reopened the CSED sends separate case opening letters to the obligee and the obligor. Generally, these letters serve two important purposes: (1) they satisfy various notice requirements to the obligee and obligor, and (2) they extend a courtesy to the participants by confirming the initiation of a CSED case, providing the case number needed for inquiries to the CSED's Voice Response Unit or Customer Service Unit, and explaining how the case will be processed.

Case Opening Letter to Obligee. The letter to the obligee applies to either an applicant for non-public assistance services, or a recipient in a public assistance case referred for child support enforcement services. (Obligees in cases being converted for continued services do not receive case opening letters.) In non-public assistance cases the case opening letter supplements the Terms and Conditions for Child Support Enforcement Services previously provided to the obligee. Information developed since the last printing of the Terms and Conditions is provided in this way. In cases receiving Medicaid or Job Supplement services only, the case opening letter provides the Terms and Conditions and any supplements. In full public assistance cases (those involving cash payments to the obligee) the case opening letter informs the obligee of the opportunity to object to the listing of personal address information on CSED forms; the Terms and Conditions document is not provided, as it does not apply to cash assistance cases. In all cases the letter specifies, and requests that the obligee provide, any information needed to proceed with the next action in the case.

Case Opening Letter to Obligor. The letter to the obligor explains how the CSED will proceed to enforce support or establish paternity or a support obligation in the case. In enforcement cases where the obligor lives in Montana the letter directs the obligor to make payments to the CSED. (See below for cases involving out-of-state obligors.) The case opening letter also informs the obligor of the opportunity to object to the

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listing of personal address information on CSED forms.

Case Opening Letters in Incoming Interstate Cases. In cases where the CSED receives an interstate referral, the letter to the obligor explains the CSED will be proceeding on behalf of the other state. The CSED does not send a case opening letter to the out-of-state obligee in these cases; instead, an Acknowledgment of Interstate Referral is sent to the initiating state. In cases where the CSED receives a direct application from an out-of-state obligee, the letters to the obligor and obligee are the same as those sent in an in-state case.

Case Opening Letters to Out-of-State Obligors. In cases where the obligor resides outside Montana the case opening letter explains the CSED will take action in the case either directly, or by requesting the assistance of the state where the obligor resides. This allows the CSED to send the case opening letter before jurisdiction is determined.

In enforcement cases if the existing support order directs the obligor to pay support to the obligee, another state, or a clerk of court, the case opening letter omits the standard notification to redirect payments, and cautions the obligor to continue to make payments to the payee named in the order. (The CSED has no authority to order an out-of-state obligor to change payees; however, the CSED may order a Montana clerk of court to redirect to the CSED any payments received from the out-of-state obligor. See section CS 503.4 for procedures.)

Cases with Obligor Applicants. Occasionally the CSED will receive a non-public assistance case where the obligor or an alleged father is the applicant for services. In these cases the CSED sends different case opening letters from those used in obligee-applicant/referral cases. Mainly, the letters recognize that it is the obligor who is subject to the CSED's terms and conditions for child support enforcement services. The letter to the obligor explains both the terms and conditions of services, and the actions the CSED will take to enforce or establish in the case.

Reciprocal Cases. In situations where both the custodial party and the noncustodial parent open cases involving the same children, the CSED sends the appropriate case opening letters--one to the obligor and one to the

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obligee--for each case.

Other Situations. Situations may arise that are not covered by the available case opening letters and their selectable variations. (For example, an alleged father who is the custodian of the children may apply for services.) In these situations the caseworker should adapt the case opening letters to fit the characteristics of the case; approval of the supervisor or staff attorney is required.

Coordination with Notification of Paternity Claim. As part of its paternity case opening procedures the CSED also sends a letter known as the Notification of Paternity Claim (see procedures in section CS 601.3). The case opening letter to the alleged father described in this section (CS 201.1) does not replace, nor is it replaced by, the Notification of Paternity Claim. The two letters serve different purposes. They may be sent in the same envelope, but only if the envelope is marked "Personal and Confidential" as required in section CS 601.3.

PROCEDURES:

RESPONSIBILITY

ACTION

Regional
Staff

1. In conjunction with the opening or reopening of a CSED case, follows procedures for applicable case opening letters in step 1a or step 1b below.
 - a. In cases where the obligee has applied for services or is receiving public assistance, prepares and sends by regular mail
 - form CS-201.1C, Case Opening Letter to Obligee, and
 - form CS-201.1D, Case Opening Letter to Obligor.

EXCEPTIONS. (1) If the obligor or alleged father is not located, follows instructions in step 2 for the letter to the obligor. (2) If the case is a paternity case and there is more than one alleged father, in the letter to the obligee either includes the names of all the alleged fathers in the heading of the letter, or issues multiple letters to the obligee,

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each listing one alleged father; issues a letter to the "obligor" to each alleged father. (3) If the case is an incoming interstate referral, omits the letter to the obligee and follows regular procedures for acknowledging receipt of the referral.

- b. In cases where the obligor is the applicant, prepares and sends by regular mail
- form CS-201.1E, Case Opening Letter to Obligee Non-Applicant, and
 - form CS-201.1F, Case Opening Letter to Obligor Applicant.
- (The above two letters are available as a SEARCHS document generation "pac.")

Proceeds to steps 3 and 4.

2. If the obligor is unlocated, evaluates the available address information and proceeds in step 2a or 2b below as applicable:
- a. If there is a reasonable chance the letter can be delivered, sends the letter to the obligor in step 1(a) and monitors for presumed delivery. If the letter is returned undelivered, proceeds with locate efforts and repeats this step (2(a)) for the obligor when a better address is obtained.
- b. If address information is completely lacking or is known to be incorrect, proceeds with locate efforts, delaying action on the case opening letter to the obligor until further information is obtained.
3. If at the time of case opening or reopening the obligor is subject to a support order that was established by a Montana district court, or that directs the obligor to send payments to a Montana Clerk of Court, follows procedures in section CS 503.4 to redirect payments received by the clerk of court to the CSED. (Note that this step is required regardless of whether the case opening letter to the obligor directs the obligor to send payments to the CSED.)
4. If at the time of case opening or reopening the obligor lives out of state, monitors for a change

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in the obligor's state of residence. If at any time subsequent to case opening the obligor moves into Montana, and all the conditions in (1) through (4) below apply, sends form CS-503.4A, Notification to Obligor, directing the obligor to send payments to the CSED (see procedures in section CS 503.4). Required conditions are as follows:

- (1) The obligor now resides in Montana.
- (2) The case is now an enforcement case.
- (3) The existing support order directs the obligor to make payments to an entity other than the CSED.
- (4) Any outgoing interstate case initiated by the CSED has been closed.

Department of Revenue

section:

CASE STATUS

CHILD SUPPORT ENFORCEMENT

subject:

Open Case Classification

POLICY:

Different actions may be needed on a IV-D case at each stage of its development in the child support enforcement process. The following system of codes is designed to enable anyone reviewing a case record to quickly and easily determine which actions may be needed to move the case to collection. It applies to new and on-going AFDC and NAFDC IV-D cases.

CLASS 1 - Paying, No Action Needed

- The obligor is paying (or has made payment within the last 3 months); and,
- No support delinquency equal to or greater than one month's support obligation exists; and,
- The obligor is located; and,
- Paternity is not at issue; and,
- The support obligation is established.

CLASS 2 - Paying, Action Still Needed

- The obligor is paying (or has made payment within the last 3 months); but,
- A support delinquency equal to or greater than one month's support obligation may exist; or,
- The obligor may be unlocated (21, 23, or 25); or,
- Paternity may be at issue (24 and 25); or,
- The support obligation may not be established (22, 23, 24, or 25).

CLASS 3 - Enforcement Only

- The obligor is not paying (or has made no payment within the last 3 months); but,
- A support delinquency equal to or greater than one month's support obligation exists; and,
- The obligor is located; and,
- Paternity is not at issue; and,
- The support obligation is established.

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Open Case Classification

CLASS 4 - Obligor Unlocated

- The obligor is not paying (or has made no payment within the last 3 months); and,
- The obligor is unlocated; and,
- Paternity may be at issue (43); or,
- The support obligation may (41) or may not be established (42 and 43).

CLASS 5 - No Obligation Established

- The obligor is not paying (or has made no payment within the last 3 months); and,
- The obligor is located; and,
- Paternity is not at issue; but,
- The support obligation is not established.

CLASS 6 - Paternity Not Established

- The obligor is not paying (or has made no payment within the last 3 months); and,
- The obligor is located; but,
- Paternity is at issue; and,
- The support obligation is not established.

CLASS 7 - Temporarily Unworkable/Inactive

Under the conditions detailed in CS Section 201.4, the establishment or enforcement of a child support obligation may be unwarranted. If the conditions are permanent, the case should be closed. If, however, the conditions may be expected to terminate in a relatively short time, the case may remain open in a Temporarily Unworkable status with no action taken.

A case should be classified as Inactive if the program is not enforcing the current support obligation but a court- or administratively-ordered arrearage is still owed to the state. The collection of arrearages owed the state has lower priority than enforcement of current support obligations. Submission for state and federal income tax refund offset will be the only action taken on these cases until all current support cases are being worked.

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Open Case Classification

CASE CLASSIFICATION CHART

The following is designed to provide quick reference to case class criteria. Only these class codes are currently authorized for use by the CSEB.

OPEN CASE CLASSIFICATION

CLASS CODE	OBLIGOR PAYING?		ORDER ESTABLSD?		PATERNITY ESTABLSD?		OBLIGOR LOCATED?		CAN CASE BE CLOSED?	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
(PAY) 11	X		X		X		X			X
21	X		X		X			X		X
22	X			X	X		X			X
<u>20</u> 23	X			X	X			X		X
(PAY) 24	X			X		X	X			X
25	X			X		X		X		X
(ENF) 31		X	X		X		X			X
41 Enf		X	X		X			X		X
<u>40</u> 42 Est		X		X	X			X		X
(LOC) 43 Pat		X		X		X		X		X
(EST) 51		X		X	X		X			X
(PAT) 61		X		X		X	X			X
(T/U) 71		X	N/A		N/A		N/A			X
(I/A) 77		X	X		X		N/A			X
(CLS) 10		X	N/A		N/A		N/A		X	

Other Classification Codes are recognized by the CSE System for special purposes. Codes such as "80", "88", and "99" are not representative of separate case classifications, but notify the CSE System that non-standard handling of collections or arrearage updates is required. For more information concerning the use of these codes, refer to the CSE System Handbook.

Supercedes: CS 201.4 (1/1/87)		CS 201.4
Department of Revenue	section:	CASE STATUS
CHILD SUPPORT ENFORCEMENT	subject:	Temporarily Unworkable/ Inactive Cases

POLICY: Even if cases do not qualify for immediate closure, CSEB action may be impossible, impractical, or premature. These cases fall into two categories:

INACTIVE CASES - A case may be classified as inactive if an arrearage is due the State of Montana pursuant to a court or administrative order, but current support is no longer being enforced. As a result of this program's need to comply with federal audit criteria, enforcement of "arrearage only" cases is to be delayed until compliance is achieved for all cases needing current support actions. Until such time, the only program action on these cases will be to submit them for state and federal income tax refund offset.

TEMPORARILY UNWORKABLE CASES - A case may be classified as temporarily unworkable if current support is to be enforced, but the obligor's special circumstances impede further case action for a finite period of time. When action is postponed, the case should be diaried for review whenever the circumstances are expected to change, or every six months to one year, whichever is sooner.

Some of the circumstances which may delay CSEB action to locate an obligor, or establish or enforce a child support obligation are:

1. Obligor on AFDC or General Assistance - It is the policy of the CSEB to take no action to establish or enforce a support obligation against an individual receiving AFDC on behalf of any minor dependent child, or receiving General Assistance benefits. (Actions to establish paternity may proceed during this time.) After AFDC benefits cease, current support actions and the enforcement of any

		CS 201.4
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ordered support arrearages (which accumulated during the AFDC benefit period) may proceed.

2. Obligor Incarcerated - It is the policy of the CSEB to take no action to establish a support obligation against an incarcerated individual. If a support obligation does exist, any seizeable assets which can be located should be pursued. In either case, court- or administratively-ordered support arrearages accrue during the period of incarceration and may be pursued when the individual is released. No action to establish paternity should be taken, however, since the individual cannot appear for blood testing or court hearings.

NOTE: Contact the appropriate Parole and Probation Officer or institution which has control of the individual for a release date. The SPLU can assist in this process.

4. Obligor Disabled - Due to an implied inability to pay support, it is the policy of the CSEB to take no action (except tax offset or Unemployment Insurance intercept) to establish or enforce a support obligation against an individual who is temporarily disabled. Court- or administratively-ordered support arrearages continue to accrue during the disability period, however, and may be pursued when the condition ceases. If it can be determined that the individual is totally and permanently disabled, the case should be referred for closure.
5. Alleged Father/Obligor is a Minor - Because of legal difficulties and other problems, it is the policy of the CSEB not to take action(s) to establish paternity or a support obligation until the alleged father/obligor is 18 years of age.

Department of Public Health and
Human Services

section:
CASE STATUS

CHILD SUPPORT ENFORCEMENT

subject:
Identifying Closed Case
Status

SUPERSEDES: CS 201.5, "Identifying Closed Case Status," March 28, 1996.

REFERENCES: 45 C.F.R. 303.11; OCSE-AT-99-04.

POLICY: The purpose of this section is to provide instructions for identifying and properly closing cases that are eligible for termination of CSED services.

Definition. For purposes of this section, the following definition applies:

Recipient of Services--any individual for whom the CSED has received a public assistance referral; or a formerly referred individual who has not declined continuing CSED services; or an individual not receiving public assistance who has applied for CSED services.

Note that this definition may apply to noncustodial parents as well as to custodial parties.

CASE CLOSURE CRITERIA

Federal regulations, expressed at 45 C.F.R. 303.11(b), define twelve specific closure criteria, at least one of which must be met for an open case to become eligible for termination of IV-D services.

The twelve closure criteria are as follows:

- (b) (1) There is no longer a current support order and arrearages are either under \$500 or unenforceable under state law.

NOTE 1: For cases meeting this criterion, the recipient of services must be notified in writing of the CSED's intent to close the case 60 calendar days before closure.

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Status

NOTE 2: The (b) (1) closure criterion is also applicable when a support order never existed.

NOTE 3: Reconciliation of the custodial and non-custodial parent with no arrearages owed to the State of Montana, or arrears below the established \$500 ceiling, allows for case closure under this criterion.

(b) (2) The non-custodial parent or putative father is deceased and no further action, including a levy against the estate, can be taken.

NOTE 1: For cases meeting this criterion, the recipient of services must be notified in writing of the CSED's intent to close the case 60 calendar days before closure. In circumstances when the recipient of services was the non-custodial parent or putative father, it is acceptable to send this notification to either the deceased's personal representative, executor of the estate or next of kin.

NOTE 2: Information from the custodian in a Non-IV-A case that the non-custodial parent is deceased may act as the sole verification source for purposes of case closure. Remember, however, inquiries into possible estate or probate information should be made as well.

NOTE 3: Open public assistance cases require additional substantiation of non-custodial parent's or putative father's death. Acceptable forms of verification may include: a copy of the death certificate, a copy of the obituary or newspaper article reporting the death, evidence from a governmental agency (i.e., Vital Records Bureau), or written correspondence from the TANF, IV-E, or interstate IV-D caseworker assigned to the case. Notification from the custodial parent will not suffice as the sole verification source in an open public assistance case.

NOTE 4: In an effort to locate possible assets of a deceased non-custodial parent, document any and all locate attempts prior to closure. This would include inquiries with the custodial parent and clerk of the district court regarding possible estate or probate information.

section: CASE STATUS

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Status

(b) (3) Paternity cannot be established because:

(i) The child is at least 18 years old and action to establish paternity is barred by a statute of limitations.

(ii) A genetic test or a court or administrative process has excluded the putative father and no other putative father can be identified.

(iii) In accordance with 45 C.F.R. 303.5(b), the IV-D agency has determined that it would not be in the best interests of the child to establish paternity in a case involving incest or forcible rape, or in any case where legal proceedings for adoption are pending.

(iv) The identity of the biological father is unknown and cannot be identified after diligent efforts, including at least one interview by the IV-D agency with the recipient of services.

NOTE 1: For cases meeting this criterion, the recipient of services must be notified in writing of the CSED's intent to close the case 60 calendar days before closure.

NOTE 2: For this criterion, the term "identity" means the biological father's first and last name.

(b) (4) The non-custodial parent's location is unknown and the CSED has made diligent efforts in accordance with 45 C.F.R. 303.3, all of which have been unsuccessful, to locate the non-custodial parent:

(i) over a three-year period when there is sufficient information to initiate automated locate efforts; or

(ii) over a one-year period when there is not sufficient information to initiate automated locate

NOTE 1: For cases meeting this criterion, the recipient of services must be notified in writing of the CSED's intent to close the case 60 calendar days before closure.

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NOTE 2: For this criterion, the term "non-custodial parent's location" means the residential or employment address of the non-custodial parent.

NOTE 3: Federal regulations at 45 C.F.R. 303.3 dictate the "diligent efforts" that a State must take when attempting to locate a non-custodial parent. Specifically, within 75 calendar days of opening a case, the CSED must access appropriate location sources in an attempt to find the parent. If this initial locate attempt is unsuccessful, then the CSED is required to repeat location efforts on a quarterly basis, or immediately upon receipt of new locate information on the non-custodial parent.

- (b) (5) The non-custodial parent cannot pay support for the duration of the child's minority because the parent has been institutionalized in a psychiatric facility, is incarcerated with no chance for parole, or has a medically-verified total and permanent disability with no evidence of support potential. The CSED must also determine that no income or assets are available to the non-custodial parent which could be levied or attached for support.

NOTE 1: For cases meeting this criterion, the recipient of services must be notified in writing of the CSED's intent to close the case 60 calendar days before closure.

NOTE 2: If the CSED has identified possible assets for seizure, or the recipient of services has presented information which may lead to the identification of seizable assets, action must be taken to verify this information prior to the determination of whether or not the case is eligible for closure under this criterion.

- (b) (6) The non-custodial parent is a citizen of and lives in a foreign country, does not work for the federal government or a company with headquarters or offices in the United States, and has no reachable domestic income or assets; and the CSED has been unable to establish reciprocity with the country.

NOTE 1: For cases meeting this criterion, the recipient of services must be notified in writing of the CSED's intent to close the case 60 calendar days before closure.

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Status

NOTE 2: Native Americans residing on tribal reservations do not reside in a "foreign country" for purposes of a (b) (6) closure. Therefore, case closure would not be appropriate when Native American jurisdictional issues inhibit the CSED from providing certain IV-D services.

- (b) (7) The CSED has provided location-only services as requested under 45 C.F.R. 302.35 (c) (3) .

NOTE 1: Cases meeting this criterion may be closed immediately.

NOTE 2: Location-only services are provided solely by the CSED State Parent Locate Unit.

- (b) (8) The Non-IV-A recipient of services requests closure of a case and there is no assignment to the State of medical support or of arrearages which accrued under a support order.

NOTE 1: Cases meeting this criterion may be closed immediately.

NOTE 2: Acceptable methods by which a recipient of services may request closure under this criterion include: telephone call, personal visit, or written communication. For future reference, document in the case record the method by which the closure was requested.

NOTE 3: In cases where the non-custodial parent was the applicant for IV-D services, the CSED may not close the case based on the custodial parent's request. However, in cases such as this, if there is no assigned support to the State, the non-custodial parent has the right to request and receive immediate closure of the case under (b) (8) .

NOTE 4: If a IV-D program in another State is specifically requesting closure on behalf of a recipient of services who has opened a case in that State, and there are no arrears assigned to the State of Montana, the CSED may close its case under (b) (8) .

section: CASE STATUS

subject: Identifying Closed Case
Status

- (b) (9) There has been a finding of good cause or other exceptions to cooperation with the CSED and the State or local IV-A, IV-D, IV-E, or Medicaid agency has determined that support enforcement may not proceed without risk of harm to the child or caretaker relative.

NOTE 1: Cases meeting this criterion may be closed immediately.

- (b) (10) In a Non-IV-A case, the CSED is unable to contact the recipient of services within a 60 calendar day period despite an attempt by at least one letter sent by first class mail to the last known address.

NOTE 1: The 60 calendar day time period at (b) (10) commences with the date the letter is mailed to the recipient of services.

NOTE 2: The 60 calendar day time period at (b) (10) is entirely separate from the 60 calendar day time period required at 45 C.F.R. 303.11(c). For example, an appropriately closed case under this criterion would need to follow the below 4 month schedule:

May 1, 1999	The CSED issues a letter to the recipient of services.
May 5, 1999	The letter is returned marked, "moved, left no forwarding address" or "unclaimed".
June 30, 1999	On the 61st day of the letter's issuance, if the location of the recipient of services has not been identified, the CSED generates <u>FORM CS-201.5B, "60 DAY CLOSURE LETTER"</u> .
August 29, 1999	On the 61st day of the "60 DAY CLOSURE LETTER" issuance, if the recipient of services has not contacted the CSED, the case may be closed.

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Status

NOTE 3: Check available resources, including TEAMS, directory assistance, and the case referral in an attempt to locate the recipient of services. Document resources which have been checked.

- (b) (11) In a Non-IV-A case, the CSED documents the circumstances of the recipient of services's noncooperation and an action by the recipient of services is essential for the next step in providing services.

NOTE 1: For cases meeting this criterion, the recipient of services must be notified in writing of the CSED's intent to close the case 60 calendar days before closure.

NOTE 2: In documenting the noncooperation of the recipient of services, it should be recognized that the requested action must be essential for the next step in providing CSED services. For example, a completed financial affidavit or paternity affidavit is considered an essential document for providing establishment services. Typically, a letter requesting this information will include document CS-202.1A, "10 Day Letter - Request for Additional Information".

NOTE 3: A case may not be closed under the (b) (11) criterion solely because the recipient of services is taking separate enforcement action on the case. The case can be closed for noncooperation only if the recipient of services refuses or fails to take an action or provide information which is necessary for the next step in providing IV-D services.

NOTE 4: A case may not be closed under the (b) (11) criterion solely because the recipient of services refuses to sign a repayment agreement for improperly retained support or fails to repay improperly retained support after signing a repayment agreement.

- (b) (12) In an interstate case, the CSED documents the circumstances of the initiating state's noncooperation and an action by the initiating state is essential for the next step in providing services.

NOTE 1: For cases meeting this criterion, the initiating state must be notified in writing of the CSED's intent to close the interstate case 60 calendar days before closure.

section: CASE STATUS

subject: Identifying Closed Case
Status

NOTE 2: The program standards appearing at 45 C.F.R. 303.7 drive the decision as to whether or not an initiating state has failed to take an action that is essential to the next step in providing services. The requirements and time frames at §303.7 are to be used by the responding state in making this determination.

FORM CS-201.5B, "60 DAY CLOSURE LETTER"

In cases meeting the criteria (b)(1) through (b)(6) and (b)(10) and (b)(11), the CSED must notify the recipient of services in writing 60 calendar days prior to closure of the CSED's intent to close the case. CSED policy dictates that this notification be accomplished through issuance of document CS-201.5B, "60 Day Closure Letter".

PROCEDURAL NOTE: Form CS-201.5B, "60 Day Closure Letter", should be issued to the recipient of services's current or last known address immediately upon the determination that one of the criteria (b)(1) through (b)(6) and (b)(10) and (b)(11) has been met.

- If no information in response to the notice is received by the end of the 60th day which could lead to CSED action, the case can be closed.
- If information in response to the notice is received on or before the 60th day which could lead to the next CSED action, the case will remain open.

GENERAL CASE CLOSURE ISSUES

RECIPIENT OF SERVICES RELOCATING OUT OF STATE

There are no residency requirements to be eligible for IV-D services, therefore, a recipient's leaving the State of Montana does not immediately justify the open CSED case being closed.

section: CASE STATUS

subject: Identifying Closed Case
StatusCONTINUED SERVICES

When a family is no longer eligible for Temporary Assistance for Needy Families (TANF), Job Supplemental Program (JSP), foster care, Medicaid or Transitional Child Care (TCC) services, the CSED is required to notify the family that IV-D services will continue unless the family states to the CSED that services are no longer desired.

OUTSTANDING CSED ACTIONS/PROCEEDINGS

When closing a case, CSED staff are reminded to review the file for any outstanding administrative actions or judicial proceedings that must be terminated prior to case closure. Examples include: releasing liens, terminating withholding orders, dismissing health insurance penalties (restrictions apply), releasing clerk-of-court redirections, and terminating license suspensions.

RETAINING CASE RECORDS

The CSED must retain all records of a closed case for a minimum of three years, in accordance with 45 C.F.R. 303.11(d).

Department of Social and
Rehabilitation Services

Section:

CASE MANAGEMENT

Child Support Enforcement

Subject:

Procedures for Continued Services

POLICY:

Whenever a custodial parent terminates receiving AFDC benefits, they receive notification by IV-A with their closure notice that enforcement services will continue uninterrupted. Enforcement will continue until the custodial parent requests in writing the Department discontinue services or until the case meets closure criteria as specified in CS 201.5. This policy guarantees the custodial parent that when AFDC terminates, child support services will be continued until those services are declined.

45 CFR 302.51(e)(2) requires the IV-D agency to notify the custodial parent about NAFDC services available, fees, cost recovery, and distribution policies within three months of termination of benefits. The notice must also inform the family that services will be continued unless the IV-D agency is notified in writing to the contrary. Any support amounts collected which represent monthly support collections for the custodial parent must be paid in accordance with the requirements of 45 CFR 302.33, and 305.28(a).

The following procedures will allow for the continuation of Department services and compliance with federal requirements.

ACTION

PROCEDURE:

Responsibility

Caseworker/Investigator:

- (1) Check audit trail for notification of terminated AFDC case.

Section:

CASE MANAGEMENT

Subject:

Procedures for
Continued Services

(2) Within three months of termination of AFDC
mails to custodial parent:

(a) Cover letter, CS 202.5a

(b) Terms and Conditions for Non-public
Assistance Child Support Enforcement Services,
CS 202.5b

(c) Non-AFDC Information Update and Medical
Insurance Questionnaire, CS 202.5c

(d) Affidavit of Support Received, CS 202.5d

(e) Authorization to Act as Agent for Child
Support Enforcement Services, CS 203.1c
(Optional to custodial parent)

(3) Unless notified in writing by the custodial
parent continues to provide uninterrupted
enforcement services.

(4) If the Non-AFDC custodial parent fails to abide
by the Terms and Conditions for Non-Public
Assistance Child Support Enforcement Services,
refers case to Regional Supervisor for closure
consideration.

Section:

CASE MANAGEMENT

Subject:

Procedures for
Continued ServicesDEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES

Committed to Quality in Human Services



STAN STEPHENS, GOVERNOR

STATE OF MONTANA

(Place office address stamp here)

RE: Child Support Enforcement Services

Dear Custodial Parent:

The Montana Child Support Enforcement Agency has been responsible for collecting child support on your behalf while you received AFDC benefits. Any support collected was used to repay the amount of welfare benefits paid out.

Upon termination of your AFDC grant, the Agency is required by Federal regulations to continue to provide enforcement services unless you tell us in writing you do not want the Agency to proceed.

New laws have strengthened our ability to collect support on your behalf. We can now intercept state and federal income tax returns for Non-AFDC cases and require employers to deduct support from a paycheck. All payments will continue to be made through our office and a state check will be issued to you after processing. There is no cost to you for these services.

Enclosed for your information is a copy of the terms and conditions which are applicable to all Non-AFDC cases. Your acceptance of Non-AFDC services will also constitute your acceptance of these terms and conditions. Please note that one of the conditions is that you are to cooperate with Non-AFDC enforcement efforts.

Also enclosed are three forms which we must have completed in order to proceed with Non-AFDC enforcement of your case. Please complete all three documents and return them signed and notarized to this office within twenty days. Failure to return these forms will be considered noncooperation, and the Department may discontinue enforcement services without further notice to you.

If you have any questions regarding this letter, please contact the office listed above.

Name

Date

"AN EQUAL OPPORTUNITY EMPLOYER"

CS 202.5a

Section:

CASE MANAGEMENT

Subject:

Procedures for
Continued Services

DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES

Committed to Quality in Human Services

STAN STEPHENS, GOVERNOR



STATE OF MONTANA

TERMS AND CONDITIONS FOR NON-PUBLIC ASSISTANCE CHILD SUPPORT
ENFORCEMENT SERVICES

THIS IS AN IMPORTANT DOCUMENT-SAVE IT.

This document contains specific rules which govern child support enforcement services if you are not receiving public assistance. This document lists your rights and responsibilities concerning the services provided by the Child Support Enforcement Division (CSED). PLEASE READ THIS DOCUMENT CAREFULLY.

To qualify for non-public assistance child support enforcement services, YOU MUST:

1. Be a Montana resident.
2. Have actual physical custody of the minor dependent child(ren) if you're seeking current support.

If you qualify, CSED will initiate any necessary action to:

1. Establish a child support order through administrative process;
2. Establish paternity for a child born out-of-wedlock;
3. Enforce existing child support orders, whether issued by a court or by an agency;
4. Enforce an order which requires the absent parent to carry medical insurance for dependent children, if insurance is available through an employer at a reasonable cost. CSED cannot collect payments on medical bills.
5. Use available interstate remedies, where appropriate.
6. Under certain circumstances, intercept state and federal income tax refunds which may be owed to the absent parent, to satisfy a past due child support debt.

In order for the CSED to act, YOU MUST:

1. Fully complete the enclosed application or information update sheet. The more information you can provide, the faster the CSED can process the case. If the CSED has to locate the absent parent's social security number, enforcement actions may be substantially delayed.
2. Advise the CSED in writing of any change in your address or status or any new information regarding the absent parent. You must also inform us of any changes in the physical custody of the children, or of any adoption proceedings that are initiated.
3. Send to the CSED any child support payment made directly to you, to insure proper record-keeping and accurate accounting. If you fail to send or deliver any direct payment made to you by the absent parent, CSED will immediately stop its enforcement efforts and close its case.
4. Grant the CSED power of attorney to accept and endorse all checks, drafts, money orders or cash payments made by the absent parent as child support.
5. Notify the CSED immediately if you begin alternate enforcement action against the absent parent. The CSED must stop its enforcement services and close its case, to avoid duplicate proceedings.
6. Submit requests for payment information or other routine information in writing to CSED with your signature, to insure privacy. No information will be provided to you over the telephone, since your identity cannot be verified. Please keep track of the payments you receive from CSED. Each minute CSED personnel spend responding to routine questions means a minute lost to enforcement services. Please help CSED to spend its time as effectively as possible.
7. You have the option of assigning your right to collect child support from the absent parent to the CSED. Such an assignment is not a condition of eligibility for non-public assistance services by the CSED, however, an assignment will enhance the ability of the CSED to collect a support obligation. If the absent parent lives in another state, interstate referrals for enforcement cannot be made without an assignment. An assignment gives the CSED your rights to collect child support until you terminate the assignment in writing. The assignment may make the support debt dischargeable in bankruptcy.

CS 202.5b
12/89

"AN EQUAL OPPORTUNITY EMPLOYER"

Section:

CASE MANAGEMENT

Subject:

Procedures for
Continued Services

8. If you have not received AFDC benefits in the last 6 (six) months, you must also provide certified copies of all existing child support orders, whether issued by a Montana court or agency or whether issued by an out-of-state court or agency. All orders must be certified copies-a photocopy of a certified copy will not be accepted. You can obtain certified copies from the clerk of the court in the county in which the order was issued.

9. You must also provide certified copies of any payment record maintained by a clerk of the court, if the absent parent has ever been ordered to pay child support through a clerk of the court's office. Again, only original certified copies are of use to the CSED.

The CSED:

1. Will determine the appropriate remedy in each case. Further, CSED will determine when legal action and the use of attorney services is appropriate. If an attorney is necessary, the attorney represents the State of Montana, not you.
2. Is in full control of the enforcement case. You will have the opportunity to terminate CSED services if you disagree with the CSED's handling of your case.
3. If all regulatory requirements are met, will intercept federal and state income tax refunds to satisfy past-due support debts, unless you ask the CSED not to use this procedure. The tax laws permit amendments to tax returns for up to six years. In some cases, a tax refund may be issued by the government which is later determined to have been issued in error. If this refund is intercepted, you will be required to repay the money you received. If you are required to pay back an intercepted refund, arrangements can be made to make repayment through any current support funds the CSED collects for you from the absent parent.
4. Will pay any current support collected to you. If the CSED collects money in an amount which exceeds the current support amount and you formerly received public assistance, the excess will be applied to any support debt owed to the State of Montana. This condition is required by federal regulations. If you have never received public assistance, any money paid by the absent parent will go to you.
5. Will forward all payments of current child support to you as soon as accounting is completed. THIS MAY TAKE UP TO 10 DAYS. Be prepared for such a delay if you use CSED services.
6. Will terminate services if custody, visitation or support of the child(ren) is in dispute, and the CSED is unable to enforce a child support order because of the dispute.
7. May stop providing services if you violate any of the written terms and conditions. You may terminate CSED services at any time by giving CSED written notice.

The CSED CANNOT GUARANTEE SUCCESS in the establishment of a child support order, establishment of paternity or the collection of child support. All warranties, whether expressed or implied, are specifically disclaimed.

THIS DOCUMENT CONTAINS ALL OF THE TERMS AND CONDITIONS GOVERNING NON-PUBLIC ASSISTANCE CHILD SUPPORT ENFORCEMENT SERVICES, EXCEPT THOSE WHICH MAY LATER BE ADDED AFTER NOTICE TO YOU.

ALL CHECKS AND MONEY ORDERS SHALL BE MADE PAYABLE TO:

MONTANA CHILD SUPPORT ENFORCEMENT DIVISION
P.O. BOX 5955
HELENA, MT 59604

Section:

CASE MANAGEMENT

Subject:

Procedures for
Continued Services

Child Support Enforcement Bureau
(Place office address stamp here)

Non AFDC Information Update

DATE: _____

Your Name: _____

Home Phone: _____

Address: _____

Work Phone: _____

City/Zip: _____

Social Security #: _____

Date of Birth: _____

ABSENT PARENT

Name: _____

Social Security #: _____

Address: _____

Date of Birth: _____

Correct as of : _____
Date

Known assets or other information

Home Phone: _____

Employer or last known employer

Children covered by support order who live in your home:

NAME

BIRTH DATE

SOCIAL SECURITY #

_____	_____	_____
_____	_____	_____
_____	_____	_____

Have you ever received support payments from a Clerk of Court or Child
Support Agency other than the Montana Department of Revenue?

Yes _____ No _____

If yes, what court or agency? Name: _____

Address: _____

OVER

CS 202.5c
12/89

Section:

CASE MANAGEMENT

Subject:

Procedures for
Continued Services

MEDICAL INSURANCE

Are your children currently receiving medical coverage through the state Medicaid Program?

Yes _____ No _____

If Yes, Medicaid Number: _____

Names of Children covered: _____

If the answer to the above question is yes, you must answer the following questions. If your children are not covered by medicaid, the following questions are optional.

1. Are dependents for whom support is sought presently covered by medical insurance? Yes _____ No _____

2. Medical Coverage is Provided for Dependent Children by:

_____ State Medicaid
_____ Custodial Parent
_____ Custodial Parent's Employment
_____ Absent Parent
_____ Absent Parent's Employment

3. Insurance Company name and address: _____

Policy Number: _____

Names of children covered: _____

4. Is the absent parent ordered to provide medical insurance for your children? Yes _____ No _____

5. Do you want the Child Support Enforcement Bureau to enforce a provision in your support order requiring the absent parent to provide medical insurance (if available through his/her employment)? Yes _____ No _____

Section:

CASE MANAGEMENT

Subject:

Procedures for
Continued ServicesAFFIDAVIT OF SUPPORT RECEIVED FROM ABSENT PARENT

Read all the choices carefully before checking the box or boxes that apply. Put your initials on the line after each box you check.

- ☐ I have never received a child support payment.
- ☐ I have received child support payments through the following Clerk of Court or other agency. ATTACH CERTIFIED PAYRECORDS.
- ☐ I have received the following child support payments directly from the absent parent. DO NOT INCLUDE PAYMENTS RECEIVED THROUGH A CLERK OF COURT OR OTHER AGENCY.

	19	19	19	19	19	19
JAN						
FEB						
MAR						
APR						
MAY						
JUN						
JUL						
AUG						
SEP						
OCT						
NOV						
DEC						

- ☐ If no support, or reduced support was owed for a specific time period, list the dates and give the reason. _____

I swear that the foregoing is a true and accurate statement of child support payments. I understand that all future child support payments I receive must be forwarded to the Montana Child Support Program for recording.

Custodial Parent _____

SUBSCRIBED AND SWORN to before me this _____ day of _____, _____.

SEAL Notary Public _____
Residing at: _____
My commission expires: _____

CS 202.5d

Section:

CASE MANAGEMENT

Subject:

Procedures for
Continued Services

STATE OF MONTANA, Department of
Social & Rehabilitation Services
Child Support Enforcement Division

(406) _____

MONTANA _____ JUDICIAL DISTRICT COURT, _____ COUNTY

STATE OF MONTANA, Acting
by and through the DEPARTMENT OF
SOCIAL & REHABILITATION SERVICES,
ex rel.

No. _____

Plaintiff,

AUTHORIZATION TO ACT AS
AGENT FOR CHILD SUPPORT
ENFORCEMENT SERVICES

-vs-

Defendant.

.

The undersigned Plaintiff hereby authorizes the Montana
Department of Social & Rehabilitation Services Division to
represent her/him in the enforcement of child support in the
above-entitled cause.

This authorization empowers the Clerk of Court to send any
support monies received to:

Child Support Enforcement Division
P.O. Box 5955
Helena, MT 59601

This authorization shall remain in full force and effect until
such time as the undersigned submits to the Department of Social
& Rehabilitation, Child Support Division a written request
releasing the Department from further child support enforcement
services or the Department discontinues child support

Section:

CASE MANAGEMENT

Subject:

Procedures for
Continued Services

enforcement services upon delivery of written notification to
the undersigned.

DATED this _____ day _____, 19_____.

SignatureSTATE OF MONTANA) ss.
COUNTY OF _____)

On this _____ day of _____, 19_____, before me,
the undersigned, a Notary Public in and for the State of Montana,
personally appeared _____ known to me
to be the person whose name is subscribed to the within
instrument and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my
Notarial Seal on the day and year first above written.

(seal)

Notary Public for the State of Montana
Residing at: _____
My Commission Expires: _____

Department of Social and
Rehabilitation Services

Section:

INTERSTATE REGION

Child Support Enforcement

Subject:

Overview

POLICY:

The Child Support Enforcement Amendments of 1984 (Pub. L. 98-378) were enacted in response to the need for greater cooperation between states in establishing and enforcing child support orders and in establishing the paternity for children born out of wedlock. The Amendments clarify the responsibilities of initiating and responding states in referring and processing interstate IV-D cases. The requirement of a central registry in each state allows for consistent processing of each referral, as well as reliable tracking of enforcement activities taken. The requirement that each state treat interstate referrals in the same manner as intrastate cases assures parental responsibilities can not be avoided by merely moving across a state line.

The Montana Child Support Enforcement Division created an Interstate Region in December 1985 and designated it Montana's Central Registry. This Region is responsible for enforcement action on all interstate referrals made to Montana over which the Department may obtain jurisdiction. The Interstate Region establishes and enforces child support orders through expedited administrative process. In order to comply with federal regulation, it is the state's intent that all interstate referrals to Montana be sent first to the Interstate Region, rather than directly to County Attorney offices. The Interstate Region will be responsible for screening, acknowledging and monitoring of interstate cases in Montana. Those referrals requiring judicial action will be forwarded to County Attorney offices which have entered into cooperative agreements with the Department of Social and Rehabilitation Services. Referrals requiring judicial action in counties which do not have cooperative agreements will be assigned to Department legal staff. As of July 1, 1988, any referral sent to and accepted by an office other than the Interstate Region will not be considered a IV-D case.

The Interstate Region will extend to IV-D referrals the full range of services available to intra state AFDC and NAFDC cases. Expedited administrative process will be used whenever possible by region staff.

Department of Social and
Rehabilitation Services

Section:

INTERSTATE REGION

Child Support Enforcement

Subject:

Referral Screening and
Case Opening

POLICY: Prior to the acceptance of an interstate referral by the Child Support Enforcement Division, the referral is screened for required information and documentation. Those referrals which are complete are next classified according to type of action requested and Montana's case management criteria. Those referrals requiring judicial enforcement are forwarded on to the County Attorney having jurisdiction over the obligor if a cooperative agreement is entered into, and assigned to Department legal staff if not. Requests for administrative action are integrated into the existing caseload of the Interstate Region. Incomplete referrals are held for further documentation, however case opening steps are completed to the extent possible.

PROCEDURE:

Responsibility

Action

.Regional Supervisor/
Caseworker

Within 10 days of receipt of a new referral, the Interstate Region must:

1. Review new referrals for required documentation:

Enforcement of Existing Order

A referral for enforcement of an existing support order must include the following:

- a. An INTERSTATE CHILD SUPPORT ENFORCEMENT TRANSMITTAL or a complete URESA petition.
- b. A copy of the assignment of rights from the custodial parent to the referring agency or, in AFDC cases (if the assignment is statutory), a copy of the statute.
- c. One certified copy of the support order and all modifications.

Section:

INTERSTATE REGION

Subject:

Referral Screening and
Case Opening

- d. A certified copy of any record of payments received and a signed and notarized affidavit from the custodial parent indicating the amount of support received directly from the absent parent (must specify "none" if so).
- e. Any employment, asset, or other relevant information known about the absent parent.

Registration of an Existing Income Withholding Order

Included with all documents required above for enforcement of an order,

- a. A certified copy of the income withholding order and,
- b. A sworn statement of the facts entitling the agency to issue an income withholding order, and that all procedural due process requirements of the foreign jurisdiction for issuance of the income withholding order have been carried out in full.

Establishing A Support Order

A referral for establishment of a support order must include the following:

- a. An INTERSTATE CHILD SUPPORT ENFORCEMENT TRANSMITTAL, or a complete URESA petition.
- b. A copy of the Assignment of Rights from the custodial parent to the referring agency or, in AFDC cases (if the assignment is statutory), a copy of the statute.
- c. Proof of parental obligation which must consist of at least one of the following:
 - 1. A copy of the child(ren)'s birth certificate(s) on which the absent parent's name appears; or,
 - 2. One **certified** copy of the Order of Divorce, Decree of Dissolution, or other order which, while it does not establish a support obligation, legally recognizes the child(ren) as issue of the two parties; or,

Section:

INTERSTATE REGION

Subject:

Referral Screening and
Case Opening

3. For an absent parent of a child for which paternity was once in question, a certified copy of a judicial or an administrative determination of paternity; or,
 4. For an absent parent of a child for which paternity might be in question, a notarized acknowledgment of paternity, if signed by both parties; or,
 5. If an absent parent is presumed to be the father of the child by action of state statute, an explanation and a copy of the statute in question.
- d. A signed and notarized affidavit from the custodial parent indicating sufficient financial information for the determination of an ongoing support amount.
 - e. Any employment, asset, or other relevant information known about the absent parent.

Paternity

Paternity referrals should contain all documents required when filing a URESA petition. Paternity cases will be handled administratively to the extent possible following procedures outlined in the Montana Child Support "Policy and Procedure" Manual.

Federal Tax Offset Administrative Review

A referral to conduct an administrative review of a federal tax offset must include the following:

- a. An INTERSTATE CHILD SUPPORT ENFORCEMENT TRANSMITTAL, or complete URESA petition.
- b. A certified copy of the underlying Order or Judgment and any supplemental Orders.
- c. A certified copy of the payment records, and a debt computation sheet showing payments made and owing on a monthly basis. If no payment history exists, an affidavit from the custodial parent indicating the amount of support received directly from the absent parent.

Section:
INTERSTATE REGION

Subject:
Referral Screening and
Case Opening

- d. A copy of the client AFDC assignment or NAFDC authorization or contract.
- e. All documenting evidence or exhibits offered by the obligor, if any.
- f. All documenting evidence or exhibits offered by the submitting state, if any.

Locate Only Requests

- a. An Interstate Child Support Enforcement Transmittal showing the absent parent's full name, and at least one of the following:
 - 1) Social Security Number
 - 2) date of birth
 - 3) approximate age
 - 4) last known Montana address
- 2. Determines which referrals will be handled administratively, and which require judicial action. The intent of the Interstate Region is to accept all referrals and proceed with expedited administrative process unless prohibited by statute or administrative rules.

The following cases must be referred to the appropriate county attorney if a cooperative agreement exists, or Department legal staff for judicial action.

- a. Requests to register a foreign Order pursuant to MCA Sec. 40-5-137.
- b. URESA referrals specifying judicial enforcement instead of expedited administrative process.

Caseworker/
Typist

- 1. Within ten days, logs in all Locate Only requests, and acknowledges receipt of the request to the initiating state. Advises the initiating state where the request was forwarded for locate efforts. Locate Only requests will be reported as interstate cases on form OCSE-156, in sections A, B, and C.

Section:

INTERSTATE REGION

Subject:

Referral Screening and
Case Opening

2. Assigns a classification code to all other referrals following manual procedures outlined under CS 201.3.
3. Enters the case in the Program computer system, noting the assigned case number.
4. Notifies the initiating state of the acceptance of the referral and the assigned case number. Requests additional information or documentation as needed.
5. Proceeds with case opening steps pursuant to type of case, ie, AFDC or NAFDC, including creating the file, cross index cards and Notice to Obligor.
6. Forwards file to Interstate Unit caseworker for verification of location and assets and initiation of appropriate enforcement action.
7. Process incomplete cases to extent possible pending necessary action or documents requested by initiating state.

Department of Social and
Rehabilitation Services

Section:

INTERSTATE REGION

Child Support Enforcement

Subject:

Responding State IV-D
Agency Requirements

POLICY: 45 CFR 303.7 requires certain actions be taken on all interstate referrals including some within specified time frames. The Interstate Region of CSED, as the designated Central Registry of Montana, has the responsibility of providing these required actions, within regulation time frames, on all incoming interstate referrals.

PROCEDURE:

Responsibility

Action

Regional Supervisor/
Bureau Chief

1. Ensure adequate organization and staff to provide for administration or supervision of: intake, establishment of paternity and support obligations; location; financial assessment; establishment of amount of obligation; collection; monitoring, enforcement and investigation.
2. Establish and use procedures for managing its caseload.
3. Periodically review program performance on interstate cases to evaluate effectiveness of procedures.
4. Ensure support payments collected are forwarded to the appropriate location no later than 10 days after the collection is received (except federal tax refund offset). Each payment must include sufficient information to identify the case and indicate when the payment was first received by the Montana CSED.

Regional Staff

1. Respond to inquiries from other states within five working days of receipt of a request for case status.

Section:

INTERSTATE REGION

Subject:

Responding State IV-D
Agency Requirements

2. Within 10 days of locating an absent parent in a different state, notifying the initiating state of the new location and, if directed by the initiating state, forward to the central registry in the state the absent parent is now located the interstate referral.
3. Notify the initiating IV-D agency within 10 days of receipt of new information.
4. Provide timely notice to the initiating IV-D agency in advance of any formal hearings which may result in establishment or modification of an order for support.
5. Notify the initiating IV-D agency when the case is closed.
6. Within 60 days of receipt of a locate request, provide available location information.
7. Pay costs incurred in interstate case processing with the exception of blood test costs.
8. Seek a judgment for costs of blood testing from the putative father, and if costs are recovered, reimburse the initiating state.
9. Identify any fees or costs deducted from support payments when forwarding payments to IV-D agency in the initiating state.

Department of Revenue

SECTION

INTERSTATE CLIENTS

SUBJECT:

URESAs Cards

CHILD SUPPORT ENFORCEMENT

Introduction: Responding states forward requests and correspondence concerning Montana initiated URESAs directly to the Helena Administration Unit. If these cases are not entered on the Bradford System, rerouting is delayed.

PROCEDURE:

Responsibility

ACTION

.Enforcement
Specialist

1. Upon filing of inter-state URESAs, fill out URESA cards with the following information:
 - . Obligor Name
 - . Obligee Name
 - . Date Uresa sent to responding state
 - . Regional Office
 - . Name and Address of corresponding agency

.Office Clerk

3. File URESA card in Cental URESA file, for future reference.

OBLIGOR NAME:	DOE, John A.
OBLIGEE NAME:	DOE, Jane A.
DATE:	06-15-82
REGIONAL OFFICE:	Billings
CORRESPONDING AGENCY:	Alan T. Mitchell St. Louis County Attorney 501 Court House Duluth, MN 55802

SAMPLE URESA CARD

(distribution 5/26/94)

~~DRAFT~~

NATIVE AMERICAN JURISDICTION (section CS 250.1)

POLICY

All Montana Indian tribes with reservations have an established tribal court system. The Landless Band of Little Shell Chippewa does have an office in Havre but has no reservation or tribal court. The tribal codes of Montana's seven reservations all include procedures to determine paternity, establish support and enforce support. Given this, when a participant is a tribal member, eligible for enrollment or considered a member of a particular Indian Community, it may be an infringement upon tribal sovereignty to use state administrative or court processes rather than deferring to tribal court to take action. The following procedures are designed to assist you in determining whether the CSED can proceed, using our administrative processes, to establish paternity, establish a support obligation or enforce a support obligation.

DEFINITIONS

"Asset located on reservation" is any property physically held or located on a Montana reservation; this includes an account in a bank that is located on a reservation.

"Asset tribally owned" is any property owned or controlled by a Montana tribe.

"Born on reservation" means the child was born on, conceived on, or conceived as a result of a relationship that occurred on any Montana reservation.

"Lives just outside reservation" means the individual lives near the reservation and goes onto the reservation for schooling or health services, or otherwise avails himself (herself, children) of the attributes of tribal membership.

"Lives on reservation" means the individual lives on or just outside any Montana reservation.

"Lived on reservation in past" means the individual has lived on or just outside the reservation (see definition for "lives just outside reservation") any Montana reservation within the past two years, or at the time of conception or birth of the child.

"NAJ" stands for "Native American Jurisdiction."

"Tribal employer" is an employer that is either a tribal agency (tribal government office or institution, tribal college, tribal school) or an on-reservation tribal business; a tribal business

must be tribally owned or tribal-member owned. When the obligor is not a tribal member, "tribal employer" does NOT include the BIA or any other federal agencies or state schools.

"Tribal member" is an individual who is enrolled in, enrollable in, or considered (by the tribe) to be a member of the Indian Community of a particular tribe.

"Work performed on reservation" is any work physically occurring on a Montana reservation; it does NOT include receiving state or federal benefits (unemployment, workers' compensation, social security, for example).

PROCEDURES

Responsibility Action

Technician/
Caseworker

1. Upon receiving a new referral, application, pending case, or a transferred case in an incoming Interstate or Montana case, or upon a change in case activity status, if any of the referral documents indicate any participant is Native American, code the case on CAS as status K, determine the case activity status and proceed as follows:
 - a. If a URESA or UIFSA is necessary, proceed with normal processing to submit to the other state's central registry. The other state will determine whether they have jurisdiction to proceed.
 - b. If the case needs paternity establishment services, go to step 2.
 - c. If the case needs order establishment services, go to step 14.
 - d. If the case needs order enforcement services, go to step 25.

Technician/
Caseworker

2. PATERNITY ESTABLISHMENT: Gather information as described in steps 2a through 2g. Then go to step 3.
 - a. For all cases, if the child was born in Montana, send CS-602.1D to Vital Statistics to request birth certificate

and/or acknowledgement of paternity.

- b. For in-state cases, proceed as described in section CS 602.1, caseworker step 1, with the following exceptions:
 - DO NOT SEND ADMISSION OF PATERNITY, CS-606.2A TO THE ALLEGED FATHER AT THIS POINT.
 - Send CS-602.1A (rev. 5/94), cover letter to mother, using second ("other") option only.
- c. Send the Paternity Addendum (CS-250.1A) to the applicant or recipient of services or to the initiating state agency, calendar for twenty-three days.
- d. At the same time, if the referral documents indicate a specific tribal affiliation(s) for any participant, send the Tribal Enrollment Letter (CS-250.1B) to each tribe specified to verify enrollment.

Note: the letter has spaces to inquire on all participants. Do not send separate letters to the same tribal enrollment office for each participant. Include a self addressed, stamped envelope. Calendar for twenty-three days.
- e. If documents are not received by the twenty-third day, mail a second request. It is not necessary to mail another self addressed, stamped envelope with a second request of the Tribal Enrollment Letter. Please use "Second Request" stamp on the document.
- f. When completed Paternity Addendum is received:
 - i. If a Montana tribal affiliation is indicated for any participant, send a Tribal Enrollment Letter (CS-250.1B) to each tribe specified to verify enrollment, unless letters were already sent at step 2.d. Include a self addressed, stamped

envelope. Calendar for twenty-three days.

Note: the letter has spaces to inquire on all participants. Do not send separate letters to the same tribal enrollment office for each participant.

- ii. If court action in a state court concerning the child(ren) is indicated, send Information Request to Clerk of Court (CS-217, rev. 5/94), requesting copies of any custody, paternity or support orders concerning the child. Also inquire whether any action is pending between these parties in that court, the nature of the action, and the cause number.
- iii. If court action in a tribal court concerning the child(ren) is indicated, send Information Request to Clerk of Court (CS-217, rev. 5/94), requesting copies of any custody, paternity or support orders concerning the child. Also inquire whether any action is pending between these parties in that court, the nature of the action, and the cause number.

If a tribal court indicates there has been or is pending a paternity, custody or child support proceeding, bring this to the attention of your Regional NAJ Representative prior to taking any actions indicated in steps 7 through 12 (for example, before sending a Tribal Interest Letter or Notice of Parental Responsibility).

- g. When both the Paternity Addendum and the Tribal Enrollment Letters have been completed and returned, update appropriate information on SEARCHS. ~~Please make sure that case status on CAS screen has been transferred to NAJ PAT.~~

*correction
5/26/94*

NOTE: If the Tribal Enrollment Letter is

not returned, it may not be necessary to delay further action. The TEAMS ETMT (Ethnic/Marital Temporary Absence) screen shows AI for American Indian under Ethnic and a tribal identifier code under Tribe. An enrollment number may also be shown. This information, if available, may be relied upon for the mother, child, and alleged father. You may also rely on information about a participant's enrollment status if the information is obtained from that participant.

- Investigator/ Caseworker 3. Upon receipt of case file with K case status and PAT activity status, Caseworker complete part I of the Paternity Fact Sheet (CS-250.1C). Go to step 4.

NOTE: While some of the "facts" requested on the fact sheet are not needed for steps 4 and 5, they may be needed in steps 6 through 12.

CAUTION--STEPS 4 AND 5: The terms printed in bold in steps 4 and 5 cover more situations than their literal interpretations imply. Please refer to the exact definitions for these terms (see "DEFINITIONS" at the beginning of this section) before using them to determine jurisdiction in any case scenario.

4. Using the information for the mother from the fact sheet, select the one appropriate fact pattern from the following options, then go to step 5:
- a. Mother is a tribal member and
 - mother **lives on the reservation** (or **lived on the reservation in the past**) and
 - child was **born on the reservation**.
 - b. Mother is a tribal member and
 - mother **lives on the reservation** (or **lived on the reservation in the past**) and
 - child was **not born on the reservation**.
 - c. Mother is a tribal member and
 - mother **does not live on the reservation** (and did not live on the

- reservation in the past) and
- child was born on the reservation.
- d. Mother is a tribal member and
 - mother does not live on the reservation (and did not live on the reservation in the past) and
 - child was not born on the reservation.
- e. Mother is not a tribal member and
 - mother lives on the reservation (or lived on the reservation in the past) and
 - child was born on the reservation.
- f. Mother is not a tribal member and
 - mother lives on the reservation (or lived on the reservation in the past) and
 - child was not born on the reservation.
- g. Mother is not a tribal member and
 - mother does not live on the reservation (and did not live on the reservation in the past) and
 - child was born on the reservation.
- h. Mother is not a tribal member and
 - mother does not live on the reservation (and did not live on the reservation in the past) and
 - child was not born on the reservation.
- 5. Using the information for the alleged father from the fact sheet, select the one appropriate fact pattern from the following options, then go to step 6:
 - a. Alleged father is not a tribal member and does not live on the reservation.
 - b. Alleged father is not a tribal member but lives on the reservation.
 - c. Alleged father is a tribal member but does not live on the reservation.
 - d. Alleged father is a tribal member and lives on the reservation.

6. Consult the Paternity Jurisdiction Chart on the following pages. ~~(There are two versions of the chart available you may use whichever format best suits you.)~~ Use the options selected in steps 4 and 5 to identify the proper location on the chart for your case. Follow the directions listed on the chart to the next appropriate step.

DO NOT PROCEED TO ANY OF THE FOLLOWING STEPS UNTIL YOU HAVE CONSULTED THE CHART.

7. Proceed with paternity establishment as set out in section CS 602.1. Change case status to N(ative American Open). (END OF PATERNITY JURISDICTION PROCEDURES. WHEN PATERNITY IS ESTABLISHED, RETURN TO STEP 1, THIS SECTION, TO EVALUATE THE CASE FOR THE NEXT ACTION.)
8. The CSED may have concurrent jurisdiction with the mother's tribe. Proceed as follows:

Send a Tribal Interest Letter (CS-250.1E) addressed to the Chief Tribal Judge of the mother's tribe, explaining all of the tribal membership, residency, and conception facts as developed on your Paternity Fact Sheet and from the Paternity Jurisdiction Chart. Send a copy to the Chair of the Tribal Council of the mother's tribe and to the mother. Calendar for thirteen days.

- a. If no response to Tribal Interest Letter within the required time, or if the tribal court or council indicates they wish the CSED to proceed, proceed with paternity establishment as set out in section CS 602.1. Change case status to N(ative American Open). (END OF PATERNITY JURISDICTION PROCEDURES. WHEN PATERNITY IS ESTABLISHED, RETURN TO STEP 1, THIS SECTION, TO EVALUATE THE CASE FOR THE NEXT ACTION.)
- b. If tribe responds that jurisdiction lies only in tribal court or raises some other serious concern with the CSED proceeding administratively, please discuss with your Regional NAJ Representative.

- If you determine you are not able to proceed further at this time, go to

step 13.

- If you determine you can proceed, take actions as advised by your Regional NAJ Representative or Staff Attorney. (Actions should lead eventually to step 7 or step 12.)

NOTE FOR FACT PATTERNS LEADING TO ASTERISK (*) ON CHART: It is quite likely the CSED will defer to tribal court in these (*) situations, but the Tribal Interest Letter is the appropriate initial process.

9. The CSED may have concurrent jurisdiction with the alleged father's tribe. Proceed as described in step 8, sending Tribal Interest Letter to the Chief Tribal Judge of the alleged father's tribe, with a copy to the Chair of the Tribal Council of the alleged father's tribe and to the applicant/recipient. Calendar for thirteen days, and take action according to response, as described in step 8.
10. The CSED may have concurrent jurisdiction with the tribe of the reservation where the mother and alleged father live. Proceed as described in step 8, sending Tribal Interest Letter to the Chief Tribal Judge of that tribe, with a copy to the Chair of the Tribal Council of that tribe and to the applicant/recipient. Calendar for thirteen days, and take action according to response, as described in step 8.
11. Tribal court may have exclusive jurisdiction to determine paternity. Please discuss with your Regional NAJ Representative.
 - If you determine you are not able to proceed further at this time, go to step 13.
 - If you determine you can proceed, take actions as advised by your Regional NAJ Representative or Staff Attorney. (Actions should lead eventually to step 7 or step 12.)
12. Tribal court has exclusive jurisdiction to determine paternity. Go to step 13.
13. Send the obligee a Notice Concerning

PATERNITY JURISDICTION CHART

	Mother a Member				Mother Not a Member			
	Lives/Lived on Reservation		Does Not Live/Has Not Lived on Reservation		Lives/Lived on Reservation		Does Not Live/Has Not Lived on Reservation	
	Child Born on Resv. (4a)	Child Not on Resv. (4b)	Child Born on Resv. (4c)	Child Not on Resv. (4d)	Child Born on Resv. (4e)	Child Not on Resv. (4f)	Child Born on Resv. (4g)	Child Not on Resv. (4h)
	Concurrent jurisdiction > step 8	Concurrent jurisdiction > step 8	Concurrent jurisdiction > step 8	Proceed to establish > step 7	Proceed to establish > step 7	Proceed to establish > step 7	Proceed to establish > step 7	Proceed to establish > step 7
AF Not a Member	Same resv.? Y > step 8* N > step 8	Same resv.? Y > step 8* N > step 8	Concurrent jurisdiction > step 8	Same tribe? Y > step 8 N > step 7	Proceed to establish > step 7	Proceed to establish > step 7	Proceed to establish > step 7	Proceed to establish > step 7
	Concurrent jurisdiction > step 8	Concurrent jurisdiction > step 8	Same tribe? Y > step 8 N > step 7	Same tribe? Y > step 8 N > step 7	Proceed to establish > step 7	Proceed to establish > step 7	Proceed to establish > step 7	Proceed to establish > step 7
AF a Member	Same resv.? Y > step 12 N > step 8	Same resv.? Y > step 12 N > step 8	Same tribe? Y > step 8 N > step 7	Same tribe? Y > step 8 N > step 7	Go to subchart B	Go to subchart B	AF on his tribe's resv.? Y > step 9 N > step 7	AF on his tribe's resv.? Y > step 9 N > step 7
	Same resv.? Y > step 12 N > step 8	Same resv.? Y > step 12 N > step 8	Same tribe? Y > step 8 N > step 7	Same tribe? Y > step 8 N > step 7	Go to subchart B	Go to subchart B	AF on his tribe's resv.? Y > step 9 N > step 7	AF on his tribe's resv.? Y > step 9 N > step 7

Subchart B

AF lives on....	Mother and AF Live on....	
	Same Reservation	Different Reservations
His Tribe's Reservation	Discuss w/ NAJ rep. > step 11	Concurrent jurisdiction > step 9
Other Reservation	Concurrent jurisdiction > step 10	Proceed to establish > step 7

Subchart A

AF Lives on....
Mother's Tribe's Reservation > step 8 AF's Tribe's Reservation > step 9 "Third" Reservation > step 7

Jurisdiction (CS-250.1F). Take no further steps unless fact patterns or case activity status changes. (END OF PATERNITY JURISDICTION PROCEDURES. IF PATERNITY IS ESTABLISHED OR FACT PATTERNS CHANGE, RETURN TO STEP 1, THIS SECTION.)

Technician/
Caseworker

14. ORDER ESTABLISHMENT: Gather information as described in steps 14a through 14e. Then go to step 15.

- a. For all cases, send the Establishment/Enforcement Addendum (CS-250.1G) to the applicant or recipient of services or to the initiating state agency, calendar for twenty-three days.
- b. At the same time, if the referral documents indicate a specific tribal affiliation(s) for any participant, send the Tribal Enrollment letter (CS-250.1B) to each tribe specified to verify enrollment. Include a self addressed, stamped envelope. Calendar for twenty-three days.

Note: the letter has spaces to inquire on all participants. Do not send separate letters to the same tribal enrollment office for each participant.

- c. If documents are not received by the twenty-third day, mail a second request. It is not necessary to mail another self addressed, stamped envelope with a second request of the Tribal Enrollment letter. Please use "Second Request" stamp on the document.
- d. When completed Establishment/Enforcement Addendum is received:
 - i. If a Montana tribal affiliation is indicated for any participant, send a Tribal Enrollment letter (CS-250.1B) to each tribe specified to verify enrollment, unless letters were already sent at step 14.b. Include a self addressed, stamped envelope. Calendar for twenty-three days.

Note: the letter has spaces to inquire on all participants. Do not send separate letters to the same tribal enrollment office for each participant.

- ii. If court action in a state court concerning the child(ren) is indicated, send Information Request to Clerk of Court, CS 217, requesting copies of any custody, paternity or support orders concerning the child. Also inquire whether any action is pending between these parties in that court, the nature of the action, and the cause number.
 - iii. If court action in a tribal court concerning the child(ren) is indicated, send Information Request to Clerk of Court, CS 217, requesting copies of any custody, paternity or support orders concerning the child. Also inquire whether any action is pending between these parties in that court, the nature of the action, and the cause number.
- e. When both the Establishment/Enforcement Addendum and the Tribal Enrollment letters have been completed and returned, update appropriate information on SEARCHS.

NOTE: If Tribal Enrollment Letters are not returned, it may not be necessary to delay further action. The TEAMS ETMT (Ethnic/Marital/Temporary Absence) screen shows AI for American Indian under Ethnic and a Tribal Identifier code under Tribe. An enrollment number may also be shown. This information may be relied upon for mother, child and alleged father, if available. You may also rely on information about a participant's enrollment status if the information is obtained from that participant.

Investigator/
Caseworker

15. Upon receipt of case file with K case status and EST activity status, complete part I of the Establishment Fact Sheet

(CS-250.1H). Go to Step 16.

16. Using the information for the absent parent from the fact sheet, select the one appropriate fact pattern from the following options, then go to step 17.
 - a. Obligor is a tribal member and lives on the reservation
 - b. Obligor is a tribal member and does not live on the reservation
 - c. Obligor is not a tribal member and lives on the reservation
 - d. Obligor is not a tribal member and does not live on the reservation
17. Using the information for the obligee from the fact sheet, select the one appropriate fact pattern from the following options, then go to step 18.
 - a. Obligee is a tribal member and child(ren) lives on the reservation.
 - b. Obligee is a tribal member and child does not live on the reservation.
 - c. Obligee is not a tribal member and child(ren) lives on the reservation.
 - d. Obligee is not a tribal member and child(ren) does not live on the reservation.
18. Consult ~~one of~~ the Establishment Jurisdiction Charts on the following pages. ~~(There are two versions of the chart available -- you may use whichever format best suits you.)~~ Use the options selected in steps 16 and 17 to identify the proper location on the chart for your case. Follow the directions listed on the chart to the next appropriate step.

DO NOT PROCEED TO ANY OF THE FOLLOWING STEPS UNTIL YOU HAVE CONSULTED THE CHART.
19. Proceed with order establishment as set out in section CS 401.3. Change case

status to N(ative American Open). (END OF ORDER ESTABLISHMENT PROCEDURES. WHEN THE ORDER IS ESTABLISHED, RETURN TO STEP 1, THIS SECTION TO EVALUATE THE CASE FOR THE NEXT ACTION.)

20. The CSED may have concurrent jurisdiction with the Obligee's tribe. Proceed as follows:

Send a Tribal Interest Letter (CS-250.1E) addressed to the Chief Tribal Judge of the Obligee's tribe, explaining all of the tribal membership and residency facts as developed from your Establishment Fact Sheet and from Establishment Jurisdiction Chart. Send a copy to the Chair of the Tribal Council of the Obligee's tribe and to the obligee. Calendar for thirteen days.

- a. If no response to Tribal Interest Letter within the required time, or if the tribal court or council indicates they wish CSED to proceed, proceed with order establishment as set out in section CS 401.3. Change case status to N(ative American Open). (END OF ORDER ESTABLISHMENT PROCEDURES. WHEN THE ORDER IS ESTABLISHED, RETURN TO STEP 1, THIS SECTION TO EVALUATE THE CASE FOR THE NEXT ACTION.)
- b. If tribe responds that jurisdiction lies only in tribal court or raises some other serious concern with the CSED proceeding administratively, please discuss with your Regional NAJ Representative.
 - If you determine you are not able to proceed further at this time, go to step 24.
 - If you determine you can proceed, take actions as advised by your Regional NAJ Representative or Staff Attorney. (Actions should lead eventually to step 19 or 24.)

ESTABLISHMENT JURISDICTION CHART

Obligor a Member			Obligor Not a Member	
Lives on Reservation (16a)	Does Not Live on Reservation (16b)	Lives on Reservation (16c)	Does Not Live on Reservation (16d)	
Child Does Not Live on Resv. (17d)	Obligor on his tribe's resv.? Y > step 21 N > step 19	Proceed to establish > step 19	Proceed to establish > step 19	Proceed to establish > step 19
Child Lives on Resv. (17c)	Go to subchart A	Child on obligor's reservation? Y > step 21 N > step 19	Child on obligee's reservation? Y > step 20 N > step 19	Proceed to establish > step 19
Child Does Not Live on Resv. (17b)	Obligor on his tribe's resv.? Y > step 21 N > step 19	Proceed to establish > step 19	Proceed to establish > step 19	Proceed to establish > step 19
Child Lives on Resv. (17a)	Go to subchart B	Child on obligee's reservation? Y > step 20 N > step 19	Child on obligee's reservation? Y > step 20 N > step 19	Child on obligee's reservation? Y > step 20 N > step 19
Obligor Not a Member				
Obligor a Member				

Subchart A

Child and Obligor Live on....		
Obligor Lives on....	Same Reservation	Different Reservations
His Tribe's Reservation	Concurrent jurisdiction > step 21	Concurrent jurisdiction > step 21
Other Reservation	Concurrent jurisdiction > step 22	Proceed to establish > step 19

Subchart B

Child Lives on....
Obligor's = Obligor's Reservation > step 23
Obligor's Resv. Only > step 20
Obligor's Resv. Only > step 21
Other Reservation > step 19

21. The CSED may have concurrent jurisdiction with the Obligor's tribe. Proceed as described in Step 20, sending Tribal Interest Letter (CS-250.1E) addressed to the Chief Tribal Judge of the Obligor's tribe, with a copy to the Chair of the Tribal Council of the Obligor's tribe and to the Obligee. Calendar for thirteen days, and take action according to response, as described in step 20.
22. The CSED may have concurrent jurisdiction with the reservation upon which the child(ren) reside. Proceed as described in Step 20, sending Tribal Interest Letter (CS-250.1E) addressed to the Chief Tribal Judge of the Tribe for the reservation on which the child(ren) reside, with a copy to the Chair of the Tribal Council of the Tribe for the reservation on which the child(ren) reside, and to the Obligee. Calendar for thirteen days, and take action according to response, as described in step 20.
23. Tribal court may have exclusive jurisdiction to establish a support order. Please discuss with your Regional NAJ Representative.
 - If you determine you are not able to proceed further at this time, go to step 24.
 - If you determine you can proceed, take actions as advised by your Regional NAJ Representative or Staff Attorney. (Actions should lead eventually to step 19 or 24.)
24. Send the obligee a Notice Concerning Jurisdiction (CS-250.1F). Take no further steps unless fact patterns or case activity status changes. (END OF ESTABLISHMENT JURISDICTION PROCEDURES. IF ORDER IS ESTABLISHED OR FACT PATTERNS CHANGE, RETURN TO STEP 1, THIS SECTION.)
25. ORDER ENFORCEMENT: Gather information as described in steps 25.a through 25.e. Then go to step 26.

Technician/
Caseworker

- a. For all cases, send the Establishment/Enforcement Addendum (CS-250.1G) to the applicant or recipient of services or to the initiating state agency, calendar for twenty-three days.
- b. At the same time, if the referral documents indicate a specific tribal affiliation(s) for any participant, send the Tribal Enrollment letter (CS-250.1B) to each tribe specified to verify enrollment. Include a self addressed, stamped envelope. Calendar for twenty-three days.

Note: the letter has spaces to inquire on all participants. Do not send separate letters to the same tribal enrollment office for each participant.

- c. If documents are not received by the twenty-third day, mail a second request. It is not necessary to mail another self addressed, stamped envelope with a second request of the Tribal Enrollment letter. Please use "Second Request" stamp on the document.
- d. When completed Establishment/Enforcement Addendum is received:
 - i. If a Montana tribal affiliation is indicated for any participant, send a Tribal Enrollment letter (CS-250.1B) to each tribe specified to verify enrollment, unless letters were already sent at step 25.b. Include a self addressed, stamped envelope. Calendar for twenty-three days.

Note: the letter has spaces to inquire on all participants. Do not send separate letters to the same tribal enrollment office for each participant.

- ii. If court action in a tribal court concerning the child(ren) is indicated, send Information Request to Clerk of Court, CS 217, requesting copies of any custody, paternity or support orders concerning the child and payment records. Also inquire whether any action is pending between these parties in that court, the nature of the action, and the cause number.
- e. When the Establishment/Enforcement Addendum, the Tribal Enrollment letters, and the Clerk of Court documents have been completed and returned, update appropriate information on SEARCHS.

NOTE: If Tribal Enrollment Letters are not returned, it may not be necessary to delay further action. The TEAMS, ETMT (Ethnic/Marital/Temporary Absence) Screen, shows AI for American Indian under Ethnic and a Tribal Identifier code under Tribe. An enrollment number may also be shown. This information may be relied upon for mother, child and alleged father, if available. You may also rely on information about a participant's enrollment status if the information is obtained from that participant.

Investigator/
Caseworker

The major consideration in determining whether the CSED may proceed to enforce a support obligation is the location and source of the income or assets. For example, state unemployment benefits, state worker's compensation benefits and state-issued licenses are subject to the state's authority, while income earned on a reservation and property located on a reservation, such as a bank account or vehicle, is generally subject to withholding or seizure only when the tribal court issues the withholding or seizure order.

THIS AREA OF THE LAW AND PRACTICE WILL CONTINUALLY BE IN A STATE OF FLUX. WHEN IN DOUBT ABOUT WHETHER THE CSED MAY SEIZE INCOME OR ASSETS EARNED OR LOCATED ON A RESERVATION, EVEN IF THE OBLIGOR IS NON-NATIVE, CONSULT

YOUR REGIONAL INDIAN JURISDICTION
REPRESENTATIVE.

26. Upon receipt of case file with K case status and ENF activity status:

a. Proceed with all required enforcement actions, including submission for federal and state income tax offsets, EXCEPT:

i. Prior to service of an Notice of Intent to Withhold (NOI), Supplemental Notice of Intent to Withhold (SNOI), or a Notice of Support Debt (NSD), or preparation of a writ package, determine:

A. Whether the obligor is an enrolled or enrollable member of any Indian tribe and the work resulting in the income you want to withhold is performed on a reservation or the asset you wish to seize is located on the reservation;

OR

B. whether the obligor is Non-Indian and the work resulting in the income you want to withhold is performed on the reservation for a tribal employer. Tribal employers includes: tribal government, tribal schools, tribally owned business, tribal member owned private businesses located on the reservation.

ii. If either A or B is yes, do not issue an income withholding order or serve an NOI, SNOI, NSD or prepare a writ package.

Continue to monitor case for change in employer/payor, location of assets, or new assets.

- iii. If neither A nor B are yes, proceed with enforcement.
- b. If obligor is non-Indian and has assets located on a reservation, you may proceed to seize assets, as long as the assets are not tribally owned or controlled.
- c. If the CSED has in an existing order to withhold in place in either an A or B, situation, please consult your Regional Indian Jurisdiction Representative before modifying or terminating the order.

STATE OF MONTANA
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION

Mother: _____

Alleged Father: _____

Child: _____

Case Number: _____

PATERNITY ADDENDUM

The information you provide by answering the questions in this addendum will help the Child Support Enforcement Division (CSED) caseworker decide how the CSED can proceed to determine paternity. Although some of the questions are sensitive, the answers provide information vital to case processing. Please answer the questions as completely and openly as you can, sign your name on page 4 and have your signature notarized, and **return the form to the CSED at the address listed above within 20 days.**

Remember that you are required to cooperate in establishing the paternity of your child. Failure to cooperate will result in action against your AFDC grant or closure of your Non AFDC case.

PART I

I am the: (check one)

- ☐ **mother** of the child for whom paternity needs to be established, or
- ☐ **alleged father** of the child for whom paternity needs to be established, or
- ☐ **non-parent caretaker/custodian** of the child for whom paternity needs to be established.

PART II

1. Is the **mother** an enrolled member, enrollable, or considered a member of the Indian community of any **Montana** Indian tribe? ☐ Yes ☐ No
If yes, list tribe and enrollment number. _____
2. Is the **alleged father** an enrolled member, enrollable, or considered a member of the Indian community of any **Montana** Indian tribe? ☐ Yes ☐ No
If yes, list tribe and enrollment number. _____
3. Is the **child** an enrolled member, enrollable, or considered a member of the Indian community of any **Montana** Indian tribe? ☐ Yes ☐ No
If yes, list tribe and enrollment number. _____

4. Is the **mother** an enrolled member, enrollable, or considered a member of the Indian community of **any Indian** tribe or an **Alaska Native**? ☐ Yes ☐ No
If yes, list tribe and enrollment number. _____
5. Is the **alleged father** an enrolled member, enrollable, or considered a member of the Indian community of **any Indian** tribe or an **Alaska Native**? ☐ Yes ☐ No
If yes, list tribe and enrollment number. _____
6. Is the **child** an enrolled member, enrollable, or considered a member of the Indian community of **any Indian** tribe or an **Alaska Native**? ☐ Yes ☐ No
If yes, list tribe and enrollment number. _____
7. Does the **mother** now live, or has she ever lived, on a **Montana** Indian reservation?
☐ Yes ☐ No If yes, list reservation and time periods of residence. _____

8. Does the **alleged father** now live, or has he ever lived, on a **Montana** Indian reservation?
☐ Yes ☐ No If yes, list reservation and time periods of residence. _____

9. Does the **child** now live, or has he/she ever lived, on a **Montana** Indian reservation?
☐ Yes ☐ No If yes, list reservation and time periods of residence. _____

10. Does the **mother** now live, or has she ever lived, on **any Indian** reservation?
☐ Yes ☐ No If yes, list reservation and time periods of residence. _____

11. Does the **alleged father** now live, or has he ever lived, on **any Indian** reservation?
☐ Yes ☐ No If yes, list reservation and time periods of residence. _____

12. Does the **child** now live, or has he/she ever lived, on **any Indian** reservation?
☐ Yes ☐ No If yes, list reservation and time periods of residence. _____

13. What is the current address for the **mother**? Please be specific and give directions.

14. What is the current address for the **alleged father**? Please be specific and give directions.

15. What is the current address for the **child**? Please be specific and give directions.

16. Where did the act of sexual intercourse, which caused the mother to become pregnant (conception), take place? Please list city, county, and state. _____

17. In what city, state, and hospital or other location was the child born? _____

If the location of birth was on an Indian reservation, which reservation?

18. Did the relationship that resulted in conception of the child occur on an Indian reservation? ☐ Yes ☐ No If yes, which reservation? _____
19. Does the **mother** receive any financial benefits from any Indian tribe? ☐ Yes ☐ No
If yes, what are the nature, amount, and frequency of the benefits? _____

20. Does the **alleged father** receive any financial benefits from any Indian tribe?
☐ Yes ☐ No If yes, what are the nature, amount, and frequency of the benefits?

21. Does the **child** receive any financial benefits from any Indian tribe? ☐ Yes ☐ No
If yes, what are the nature, amount, and frequency of the benefits? _____

22. To the best of your knowledge, is there or has there been any proceeding initiated in a tribal court or state district court regarding the child? ☐ Yes ☐ No
If yes, please explain what type of action, when it occurred and the name and location of the court. _____

If you have additional information that you think would be useful, write it below or attach another page.

Be sure to sign the other side of this page and have your signature notarized.

I, the person whose signature appears below, first being duly sworn and under oath, hereby declare that my answers to the foregoing questions are correct and complete to the best of my knowledge and belief. In making this declaration, I understand any omission, misrepresentation, or falsification made by me will subject me to prosecution and penalties prescribed in MCA § 45-7-210 (Perjury) and MCA § 45-7-202 (False swearing).

Dated this _____ day of _____, 19

Signature

Address

STATE OF _____)
County of _____ : ss.
_____)

SUBSCRIBED AND SWORN TO before me, a Notary Public on the date written above.

(S E A L)

Notary Public
Residing at _____
My Commission Expires: _____

CONFIDENTIALITY OF INFORMATION

Information requested in this document will become part of the CSED case record. This information, or portions of it, may be exchanged with the other parties in the case unless you request it be protected. To request protection of specific information, contact the CSED at the address at the top of this addendum. You must have a valid reason for requesting protection.

STATE OF MONTANA
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION

9-9-10 • 10-11 • 11-12 • 12-
7 8

May 20, 1996

46-
51- 51-
52-
53- 55-
56-
57-

Dear Tribal Enrollment Office:

The Child Support Enforcement Division (CSED) of the Montana Department of Public Health and Human Services received a referral or application for services regarding the individual(s) named below. In order to determine whether we have jurisdiction to proceed with required actions, we must know whether any of the parties are enrolled tribal members, enrollable or considered members of your Indian community. Please provide this information and return the form in the enclosed self-addressed stamped envelope.

47- Name: 16-
Date of Birth: 43-
SSN: 17-
Mother's Name: 44-
Father's Name: 45-

☐ Tribal Member ☐ Enrollable ☐ Member of Indian Community
Please specify: _____

Enrollment Number (if available): _____

48- Name: 13-
Date of Birth: 54- 54- 42-
SSN: 14-
Mother's Name: 49-
Father's Name: 50-

☐ Tribal Member ☐ Enrollable ☐ Member of Indian Community
Please specify: _____

Enrollment Number (if available): _____

18~ Name: 18~
Date of Birth: 19~
SSN: 20~
Mother's Name: 13~
Father's Name: 16~

☐ **Tribal Member** ☐ **Enrollable** ☐ **Member of Indian Community**
Please specify: _____

Enrollment Number (if available): _____

21~ Name: 21~
Date of Birth: 22~
SSN: 23~
Mother's Name: 13~
Father's Name: 16~

☐ **Tribal Member** ☐ **Enrollable** ☐ **Member of Indian Community**
Please specify: _____

Thank you for your assistance. Please call me if you have questions concerning this request.

4~ , 5~
Child Support Enforcement Division

NATIVE AMERICAN JURISDICTION FACT SHEET: PATERNITY

Case Number: _____

PART I: PARTICIPANT FACTS

Participant Name

Alleged Native American

Alleged
Father

Mother

Child

Child

Child

Child

Child

TRIBAL MEMBERSHIP FACTS

Alleged Tribal Member*

Tribal Identifier (see reverse)

Verified Tribal Member*

Tribal Identifier (see reverse)

RESIDENCY FACTS

Lives on Reservation**

Reservation Code (see reverse)

Lived on Reservation in Past***

Reservation Code (see reverse)

(Child) Lives with Alleged Father

CONCEPTION FACTS

(Child) Born on Reservation****

Reservation Code (see reverse)

PART II: JURISDICTION DETERMINATION

A. Jurisdiction Determination per CSED policy as of _____, by _____. Determination: _____

B. Stated Preference of Obligor's Tribal Court/Council: _____

☐ CSED to proceed with establishment.

☐ CSED NOT to proceed with establishment.

Stated Preference of Obligee's or Custodial Party's Tribal Court/Council: _____

☐ CSED to proceed with establishment.

☐ CSED NOT to proceed with establishment.

C. Agreed Jurisdiction Determination as of _____, by _____. Determination: _____

* "Tribal member" means the individual is enrolled in, enrollable in, or considered (by the tribe) to be a member of the Indian Community of a particular tribe.

** "Lives on reservation" means the individual lives on or "just outside" any Montana reservation. Living just outside a reservation means living near the reservation and going onto the reservation for schooling or health services, or otherwise availing oneself or children of the attributes of tribal membership.

*** "Lived on reservation in past" means the individual has lived on or just outside (see above) any Montana reservation within the past two years, or at the time of conception or birth of the child.

**** "Born on reservation" means the child was born on, conceived on, or conceived as a result of a relationship that occurred on any Montana reservation.

Tribal Identifiers

AI	Assiniboine (on FB reservation)
AR	Arapahoe
AS	Assiniboine/Sioux (on FP reservation)
BD	Blood
BL	Blackfeet
CC	Chippewa Cree
CR	Crow
FL	Flathead
GV	Gros Ventre (on FB reservation)
KO	Kootenai
NC	Northern Cheyenne
NP	Nez Perce
OT	Other (tribal member of out of state tribe)
PI	Piegian
SA	Salish
SH	Shoshone
SX	Sioux (tribal member of out of state tribe)
UU	Indian, but tribe unknown

Reservation Codes

BL	Blackfeet Reservation (Blackfeet Tribe)
RB	Rocky Boy's Reservation (Chippewa Cree Tribe)
FL	Flathead Reservation (Salish and Kootenai Tribes)
CR	Crow Reservation (Crow Tribe)
NC	Northern Cheyenne Reservation (Northern Cheyenne Tribe)
LS	Little Shell Tribe (no reservation)
FP	Fort Peck Reservation (Assiniboine and Sioux Tribes)
FB	Fort Belknap Reservation (Gros Ventre and Assiniboine Tribes)

May 12, 1994

Name, Chief Judge
Name of Tribe Tribal Court
PO Box XXX
City MT Zip

Re: CP Name and AP Name; CSED Case No. xxxxx

Dear Chief Judge xxxxx:

The Child Support Enforcement Division (CSED) of the Department of Social and Rehabilitation Services is the state agency created in compliance with Title IV-D of the Social Security Act, 42 U.S.C. 651 et seq. In return for the state's receipt of federal public assistance funds, the CSED is responsible for the paternity establishment and the establishment and enforcement of child support orders in both public assistance and non-public assistance cases.

EXPLAIN CP AND CHILDREN TIES TO RESERVATION INCLUDING ENROLLMENT, AND RESIDENCY OR TIES TO RESERVATION. EXAMPLE: "Betty Elaine Smith resides on the Fort Peck Reservation at Wolf Point. She is an enrolled member of the Confederated Salish & Kootenai Tribes of the Flathead Reservation. Her child, John Francis Smith, who resides with her on the Fort Peck Reservation, is not an enrolled member of any Indian Tribe."

EXPLAIN AP TIES TO RESERVATION IF ANY OR FACT THAT THERE AREN'T ANY. EXAMPLE: "Thomas Samuel Jones, the father of John Smith, resides in Peerless, Montana. He formerly resided on the Fort Peck Reservation with his new family but has been living in Peerless for approximately two years. We believe he is not an enrolled member of any Indian tribe and this is also Betty's belief."

EXPLAIN STATE'S INTEREST IN THIS PARTICULAR CASE. EXAMPLE: "Betty Smith is receiving public assistance benefits from the State of Montana and is anxious for the CSED to establish a child support obligation for her child John Francis Smith." The CSED would like to proceed in our own state administrative forum, to establish a support obligation for John Francis Smith.

EXPLAIN WHAT YOU ARE REQUESTING OF TRIBAL COURT. EXAMPLE: "Please advise me within 15 days of the date of this letter whether the tribal court has an objection to the CSED proceeding to establish a support obligation/establish paternity in this case. Thank you for your cooperation."

Very truly yours,

Name of Investigator/Supervisor/Attorney
Title

c: CP Name
Name of Tribal Council Chair, Chair, Name of Tribe Tribal
Council

STATE OF MONTANA
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION

6~6~7~ • 7~8~ • 8~9~ • 9~•
4~ 5~

May 20, 1996

10~
11~
12~
13~
14~14~

Case Number: 2~
Caseworker: 15~

NOTICE CONCERNING JURISDICTION TO PROCEED

The Child Support Enforcement Division (CSED) has evaluated the information you provided and information gathered through CSED investigation, including information provided by the relevant tribe(s). It has been determined that the CSED does not have jurisdiction to 16~establish paternity establish a support and health insurance obligation for your child(ren) using our state administrative process.

The CSED will continue to monitor this case for changes which may affect our ability to proceed. If you know that any of the parties have moved, please contact your CSED caseworker with the new information.

At this time, you may wish to initiate a16~ paternity support establishment action through the tribal court. If you do so, please tell the CSED caseworker. If the tribal court or a tribal advocate/attorney indicates that the CSED should proceed or has jurisdiction to proceed, please tell your CSED caseworker.

STATE OF MONTANA
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION

Obligee: _____

Obligor: _____

Child: _____

Case Number: _____

ESTABLISHMENT/ENFORCEMENT ADDENDUM

The information you provide by answering the questions in this addendum will help the Child Support Enforcement Division (CSED) caseworker determine how the CSED can proceed to establish or enforce a support obligation. Please answer the questions as completely and openly as you can, sign your name on page 4 and have your signature notarized, and **return the form to the CSED at the address listed above within 20 days.**

Remember that you are required to cooperate in establishing or enforcing support for your child. Failure to cooperate will result in action against your AFDC grant or closure of your Non AFDC case.

PART I

I am the: (check one)

- ☐ **mother** of the child for whom support needs to be established or enforced, or
- ☐ **father** of the child for whom support needs to be established or enforced, or
- ☐ **non-parent caretaker/custodian** of the child for whom support needs to be established or enforced.

PART II

1. Is the **mother** an enrolled member, enrollable, or considered a member of the Indian community of any **Montana** Indian tribe? ☐ Yes ☐ No
If yes, list tribe and enrollment number. _____
2. Is the **father**, an enrolled member, enrollable, or considered a member of the Indian community of any **Montana** Indian tribe? ☐ Yes ☐ No
If yes, list tribe and enrollment number. _____
3. Is the **child** an enrolled member, enrollable, or considered a member of the Indian community of any **Montana** Indian tribe? ☐ Yes ☐ No
If yes, list tribe and enrollment number. _____

4. Is the **mother** an enrolled member, enrollable, or considered a member of the Indian community of **any Indian** tribe or an **Alaska Native**? ☐ Yes ☐ No
If yes, list tribe and enrollment number. _____
5. Is the **father** an enrolled member, enrollable, or considered a member of the Indian community of **any Indian** tribe or an **Alaska Native**? ☐ Yes ☐ No
If yes, list tribe and enrollment number. _____
6. Is the **child** an enrolled member, enrollable, or considered a member of the Indian community of **any Indian** tribe or an **Alaska Native**? ☐ Yes ☐ No
If yes, list tribe and enrollment number. _____
7. Does the **mother** now live, or has she ever lived, on a **Montana** Indian reservation?
☐ Yes ☐ No If yes, list reservation and time periods of residence. _____

8. Does the **father** now live, or has he ever lived, on a **Montana** Indian reservation?
☐ Yes ☐ No If yes, list reservation and time periods of residence. _____

9. Does the **child** now live, or has he/she ever lived, on a **Montana** Indian reservation?
☐ Yes ☐ No If yes, list reservation and time periods of residence. _____

10. Does the **mother** now live, or has she ever lived, on **any Indian** reservation?
☐ Yes ☐ No If yes, list reservation and time periods of residence. _____

11. Does the **father** now live, or has he ever lived, on **any Indian** reservation?
☐ Yes ☐ No If yes, list reservation and time periods of residence. _____

12. Does the **child** now live, or has he/she ever lived, on **any Indian** reservation?
☐ Yes ☐ No If yes, list reservation and time periods of residence. _____

13. What is the current address for the **mother**? Please be specific and give directions.

14. What is the current address for the **father**? Please be specific and give directions.

15. What is the current address for the **child**? Please be specific and give directions.

16. Does the **mother** receive any financial benefits from any Indian tribe? ☐ Yes ☐ No
If yes, what are the nature, amount, and frequency of the benefits? _____

17. Does the **father** receive any financial benefits from any Indian tribe? ☐ Yes ☐ No
If yes, what are the nature, amount, and frequency of the benefits? _____

18. Does the **child** receive any financial benefits from any Indian tribe? ☐ Yes ☐ No
If yes, what are the nature, amount, and frequency of the benefits? _____

19. To the best of your knowledge, is there or has there been any proceeding initiated in a tribal court or state district court regarding the child? ☐ Yes ☐ No
If yes, please explain what type of action, when it occurred and the name and location of the court. _____

If you have additional information that you think would be useful, write it below. If you need more space, attach another page.

Be sure to sign the other side of this page and have your signature notarized.

I, the person whose signature appears below, first being duly sworn and under oath, hereby declare that my answers to the foregoing questions are correct and complete to the best of my knowledge and belief. In making this declaration, I understand any omission, misrepresentation, or falsification made by me will subject me to prosecution and penalties prescribed in MCA § 45-7-210 (Perjury) and MCA § 45-7-202 (False swearing).

Dated this _____ day of _____, 19

Signature

Address

STATE OF _____)
County of _____) : ss.

SUBSCRIBED AND SWORN TO before me, a Notary Public on the date written above.

(S E A L)

Notary Public

Residing at _____

My Commission Expires: _____

CONFIDENTIALITY OF INFORMATION

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● NATIVE AMERICAN JURISDICTION FACT SHEET: ESTABLISHMENT ●

Case Number: _____

	Obligor	Obligee	Third Party Custodian	Child	Child	Child
--	---------	---------	-----------------------	-------	-------	-------

PART I: PARTICIPANT FACTS

Participant Name	_____	_____	_____	_____	_____	_____
Alleged Native American	_____	_____	_____	_____	_____	_____

TRIBAL MEMBERSHIP FACTS

Alleged Tribal Member*	_____	_____	_____	_____	_____	_____
Tribal Identifier (see reverse)	_____	_____	_____	_____	_____	_____
Verified Tribal Member*	_____	_____	_____	_____	_____	_____
Tribal Identifier (see reverse)	_____	_____	_____	_____	_____	_____

RESIDENCY FACTS

Lives on Reservation**	_____	_____	_____	_____	_____	_____
Reservation Code (see reverse)	_____	_____	_____	_____	_____	_____

PART II: JURISDICTION DETERMINATION

- A. Jurisdiction Determination per CSED policy as of _____, by _____. Determination: _____
- B. Stated Preference of Obligor's Tribal Court/Council: _____ Stated Preference of Obligee's or Custodial Party's Tribal Court/Council: _____
☐ CSED to proceed with establishment.
☐ CSED NOT to proceed with establishment.
- C. Agreed Jurisdiction Determination as of _____, by _____. Determination: _____

* "Tribal member" means the individual is enrolled in, enrollable in, or considered (by the tribe) to be a member of the Indian Community of a particular tribe.
** "Lives on reservation" means the individual lives on or "just outside" any Montana reservation. Living just outside a reservation means living near the reservation and going onto the reservation for schooling or health services, or otherwise availing oneself or children of the attributes of tribal membership.

CS-250.1H
(New 5/94)

Tribal Identifiers

AI	Assiniboine (on FB reservation)
AR	Arapahoe
AS	Assiniboine/Sioux (on FP reservation)
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SA	Salish
SH	Shoshone
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FP	Fort Peck Reservation (Assiniboine and Sioux Tribes)
FB	Fort Belknap Reservation (Gros Ventre and Assiniboine Tribes)

NATIVE AMERICAN JURISDICTION FACT SHEET: ENFORCEMENT

OBLIGOR FACTS

Obligor: _____
Obligee: _____
Case Number: _____

TRIBAL MEMBERSHIP

Alleged Tribal Member*
Tribal Identifier (see reverse)

Verified Tribal Member*
Tribal Identifier (see reverse)

INCOME

Work Performed on Reservation**
Reservation Code/Type of Work

Work Performed for Tribal Employer***
Type of Work/Name of Employer

ASSETS

Asset(s) Located on Reservation****
Reservation Code/Type of Asset(s)

Asset(s) Tribally Owned*****
Tribal Identifier/Type of Asset(s)

Jurisdiction Determination as of _____, by _____. Determination: _____

- * "Tribal member" means the individual is enrolled in, enrollable in, or considered (by the tribe) to be a member of the Indian Community of a particular tribe.
- ** "Work performed on reservation" means any work physically occurring on a Montana reservation; it does NOT include receiving state or federal benefits (unemployment, workers' compensation, social security, for example).
- *** "Tribal employer" means an employer that is either a tribal agency (tribal government office or institution, tribal college, tribal school) or an on-reservation tribal business; a tribal business must be tribally owned or tribal-member owned. When the obligor is not a tribal member, "tribal employer" does NOT include the BIA or any other federal agencies or state schools.
- **** "Asset located on reservation" means any property physically held or located on a Montana reservation; this includes an account in a bank that is located on a reservation.
- ***** "Asset tribally owned" means any property owned or controlled by a Montana tribe.

Tribal Identifiers

AI	Assiniboine (on FB reservation)
AR	Arapahoe
AS	Assiniboine/Sioux (on FP reservation)
BD	Blood
BL	Blackfeet
CC	Chippewa Cree
CR	Crow
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NP	Nez Perce
OT	Other (tribal member of out of state tribe)
PI	Piegian
SA	Salish
SH	Shoshone
SX	Sioux (tribal member of out of state tribe)
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FP	Fort Peck Reservation (Assiniboine and Sioux Tribes)
FB	Fort Belknap Reservation (Gros Ventre and Assiniboine Tribes)

APR

20
Calendar
Days

Yes

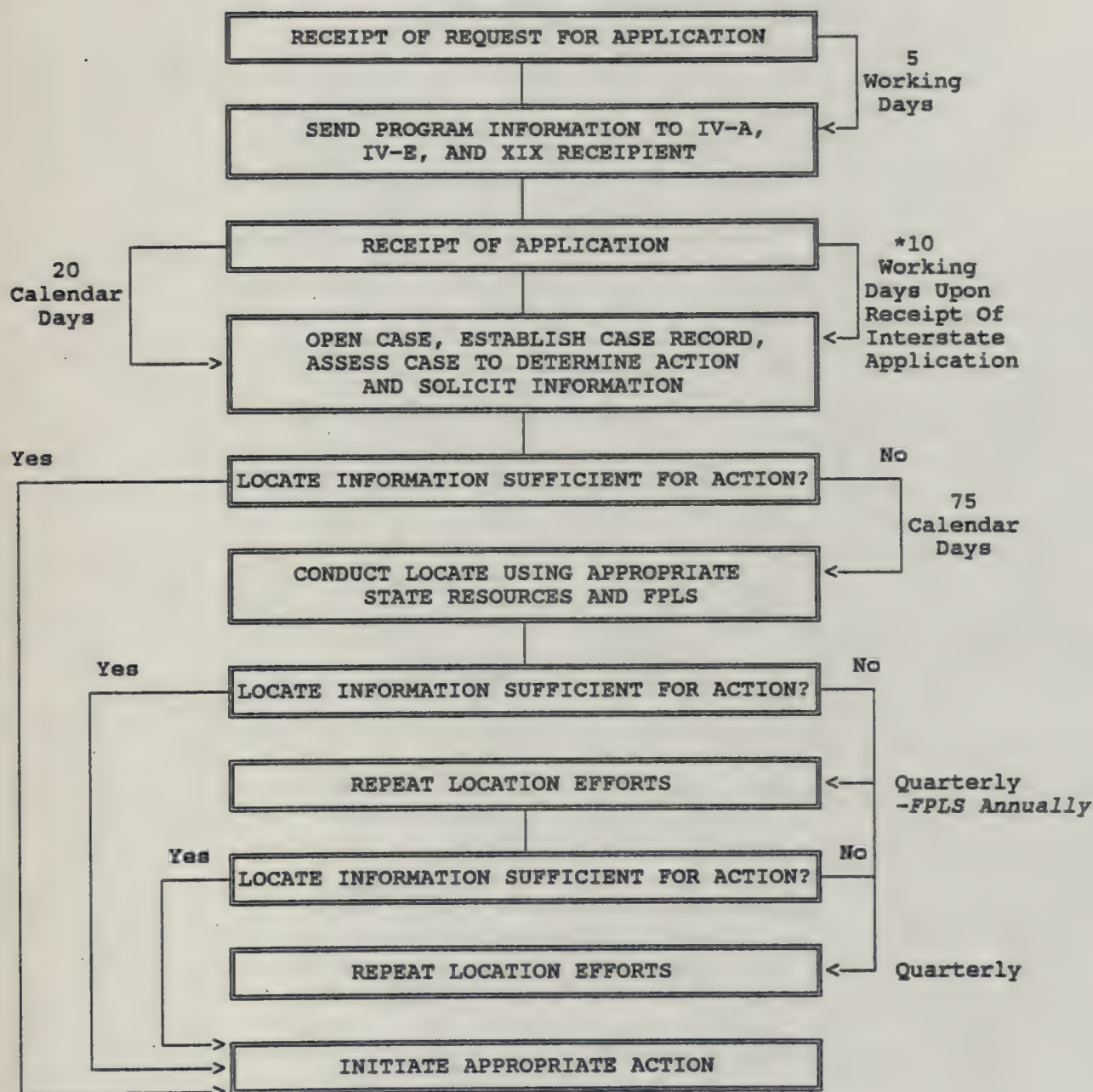
Y

INTAKE

SECRET

4/17/95

APPLICATION AND CASE ESTABLISHMENT



INTAKE

- Send an application within 5 working days of written or telephone request. Immediately upon an in person request.[CFR 303.2(a)(2)]
- 20 calendar days to open and establish case record. Determine next action. [CFR 303.2(b)]
- *10 working days to open and establish case record upon receipt of an interstate referral.[CFR 303.7(a)(2)]

LOCATE

- Within 75 calendar days of determining that location is necessary, access all appropriate location sources.[CFR 303.3(b)(3)]
- Quarterly automated locate checks, or immediately upon receipt of new information.[CFR 303.3(b)(5)]

Depart

CHILD

POLICY:

Octob

Department of Revenue

DIVISION:

LOCATION

subject:

Overview

CHILD SUPPORT ENFORCEMENT

POLICY:

The location of an absent parent or an absent parent's assets must be known before other child support enforcement activities can proceed. Sources of location information directly available to the regional offices should be utilized first. If satisfactory results cannot be obtained in this way, additional sources can be accessed through the State Parent Locate Unit in Helena. If the absent parent cannot be located using any resources available, the case should be reviewed for closure.

1. Direct local locate procedures are described in Section CS 301.1) and sources are described in Section CS 301.2). Procedures for accessing information from the following sources include:

- Postal verifications (see Section CS 301.5)
- Utility companies (see Section CS 301.6)
- Military personnel (see Section CS 304.1)

Other sources are discussed in the sections contained in CS 305 through 306.

2. Regional offices may obtain through the SPLU:

- Federal Parent Locate Service (see Section CS 301.3)
- Income and asset information utilizing Montana income tax microfiche from 1971 to 1980 (request by phone) and copies of Montana income tax returns (see Section CS 302.2)

CS 300.1

section:

subject:

LOCATION

Overview

- Wage and benefit information from the Employment Security Division (see Sections CS 302.1 and 302.1A).
- Credit Bureau information (see Section CS 303.1).
- Worker's Compensation information (see Sections CS 304.2 and 304.2A)
- Information concerning inmates and parolees of the state and federal penal system (see Sections CS 304.3 and 304.6)
- Information from "reverse" (e.g., POLK) directories (see Section CS 304.5)
- Information from the Montana Fish, Wildlife, and Parks special license files (see Sections CS 304.6A)
- Information from driver's license records nationwide (request by phone or in writing, giving name and complete date of birth).

Department of Revenue

SECTION:

ABSENT PARENT LOCATION

CHILD SUPPORT ENFORCEMENT

SUBJECT:

Locate Procedures for Regional,
Satellite, and County Offices
in MontanaLOCATION:

TIME LIMITATION--All local and state locate resources must be exhausted within 60 days of the date of referral of an AFDC case or receipt of a Non-AFDC Application and contract. 45 CFR 303.3 (d)

OUT OF STATE ABSENT PARENTS---A request for locate services is made through the Montana State Parent Locate Unit by submitting both copies of the CS 301 form and keeping a zerox copy for a temporary record until the original is returned.

NOTE: Montana is also required to provide local and state locate services to other states when requested. All out of state locate requests must be made through the Montana SPLS.

PATERNITY ESTABLISHMENT AND/OR SUPPORT ENFORCEMENT are the only valid reasons for conducting locate activities.

PROCEDURE:ACTIONS REQUIRED BY FIELD PERSONNEL

1. Examine the Referral or Application Form for identifying information about the Absent Parent (e.g.; social security number, most recent address, last employer).
2. Select the local locate resources to be used in this case.
3. Conduct search of appropriate local locate sources. (e.g.; those sources listed in section 301.2 of this manual).
4. Record local contacts, dates, and results of locate efforts in the case file.
5. Successful Local Locate--Proceed to other areas of the support enforcement process as necessary.

SECTION:

OBLIGOR LOCATION

SUBJECT:

Locate Procedures for Regional
Satellite, and County Offices
in Montana.5A. Unsuccessful Local Locate of Absent Parent:

Use Form CS-301, "Parent Locator Service" to refer the case to the State Parent Locate Unit for further locate action including Federal Parent Locate Service. (See instructions listed in section CS 301.4).

NOTE: If successful locate is obtained by region, notify State PLS to discontinue action.

o o o

Department of Revenue

Section:

ABSENT PARENT LOCATION

CHILD SUPPORT ENFORCEMENT

subject:

Application Procedure for
Locate Only ServicesLocate Only

FOR CHILD SUPPORT OBLIGATIONS -- The State PLS shall only accept applications to use the Federal PLS (FPLS) from: (1) Any State or local agency or official seeking to collect child and spousal support obligations under the State plan; (2) A court that has authority to issue an order against an absent parent for the support and maintenance of a child, or any agency of such court; (3) The resident parent, legal guardian, attorney, or agent of a child who is not receiving aid under Title IV-A of the Social Security Act. 45 CFR 302.35(c).

WRITTEN APPLICATION REQUIRED -- Application must be made on forms prescribed by CSEB. The individual applying for absent parent locate only services agrees to use locate information exclusively for child support enforcement purposes.

FEE -- A locate service fee of \$10.00 is charged if the absent parent's social security number is known or a \$14.00 fee if unknown. The fee is to be paid in advance by the applicant each time an application for locate only service is made.

PROCEDURE:

Responsibility

ACTION

APPLICANT

1. Completes the following forms and returns them in person or by mail to the IV-D agency:

- . "APPLICATION FOR PARENT LOCATE SERVICE"

- . "CONTRACT FOR PARENT LOCATOR SERVICES"

CSEP PERSONNEL:

All inquiries for locate only services will be directed to the Locate Unit.

August 10, 1987

Page 1 of 5

Section:

ABSENT PARENT LOCATION

Subject:

Application Procedure for
Locate Only ServicesLOCATE UNIT
PERSONNEL:

1. Provide application and contract forms to the requestor and include a statement of the required fee.
2. Upon receipt of the forms and fee from the requestor, review for completeness and clarity, paying special attention for required information to Absent Parent section of the Application form and ensure the contract form has been signed and notarized.
3. Perform locate searches as applicable.
4. Inform applicant of search results. Include statement of restriction on use of information for child support enforcement purposes only.

(COPIES OF APPLICATION FORM AND CONTRACT ON FOLLOWING PAGES)

Section:

ABSENT PARENT LOCATION

Subject:

Application Procedure for
Locate Only Services

DEPARTMENT OF REVENUE
INVESTIGATIONS AND ENFORCEMENT DIVISION
CHILD SUPPORT ENFORCEMENT BUREAU

P.O. BOX 545
HELENA, MONTANA 59604

APPLICATION FOR PARENT LOCATE SERVICE

(Full names, not initials)

A Recipient's Name First Middle Last SOCIAL SECURITY NO. _____
 Address _____
 City _____ State _____ Zip _____ Birth Date _____
 Phone _____ Race _____ Sex _____
 Relationship to Children _____

B ABSENT PARENT First Middle Last SOCIAL SECURITY NO. _____
 Present Address _____
 City _____ State _____ Zip _____ DESCRIPTION _____ Race _____
 Sex _____ Eyes _____
 Hair _____ Weight _____
 Height _____ Ft. _____ In.
 Last Known Address _____
 City _____ State _____ Zip _____ Birth Date _____ Age _____
 Birthplace _____ City _____ State _____
 List any identifying scars or marks: _____

C List name, addresses, and approximate dates of employment of all present and past employers of absent parent:

Name	Address	Dates Worked

1. What Trade Unions has he belonged to (Enter Name, Local No., City & State)

2. Is he receiving Military Retirement? ☐ Yes ☐ No3. Was he a member of the Armed Forces? ☐ Yes ☐ No (If yes give the following):

Branch _____	Date Enlisted _____	Date Discharged _____	Service Number _____
--------------	---------------------	-----------------------	----------------------

Section:

ABSENT PARENT LOCATION

Subject:

Application Procedure for
Locate Only Services

4. Is he receiving Unemployment Compensation? ☐ Yes ☐ No What state? _____
5. List other names father goes by, if any: _____
6. What is his usual occupation? _____
7. Has he ever been arrested? ☐ Yes ☐ No (If Yes, place arrested) _____
8. Does he have a drivers license? ☐ Yes ☐ No From what state? _____
9. What is make, model and year of his car? _____
10. What is the license number of absent parent's car? _____
11. What are the names and address of his parents? (List names even if deceased) _____
- FATHER _____ MOTHER _____
Full Name Full Name (Maiden Name, if married)
- Address _____ Address _____
Street City State Zip Street City State Zip
12. List names and addresses of his other relatives and/or friends:
- | Name | Relationships | Complete Address |
|-------|---------------|------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
13. Provide any further information that you think may be helpful in locating the absent parent:

14. If you are not the legal parent of the children, state briefly why you are trying to Locate the absent parent:

ADDITIONAL REMARKS

Certification of Mother or Plaintiff I certify that the above information is true to the best of my knowledge.

Signature of Mother or Plaintiff ☒ _____ Date _____

Subscribed and sworn to before me, a Notary Public, this _____ day of _____ 19 _____

My Commission Expires _____

NOTARY PUBLIC

Residing at: _____

Section:

ABSENT PARENT LOCATION

Subject:

Application Procedure for
Locate Only Services

DEPARTMENT OF REVENUE
INVESTIGATIONS AND ENFORCEMENT DIVISION
CHILD SUPPORT ENFORCEMENT BUREAU

P.O. BOX 544
HELENA, MONTANA 59604

STATE OF MONTANA

CONTRACT FOR PARENT LOCATOR SERVICES

This article of agreement, made this _____ day of _____, 19____, between _____, hereinafter referred to as applicant, who may be the resident parent, a contracting county attorney, the Attorney General's Office, District Court, legal guardian, attorney, or agent of a child who is not receiving public assistance, who is the representative of the dependent children of _____, hereinafter referred to as absent parent, and the Bureau of Child Support Enforcement, hereinafter referred to as Bureau:

Witnesseth, that the parties to this agreement, for and in consideration of \$_____, receipt of which is hereby acknowledged, stipulate and agree as follows:

1. That the Bureau will exhaust all reasonable locate sources to locate the above named absent parent.
2. That all information being transferred and received on this Parent Locate Contract is treated as confidential information by this Bureau, and protective measures are in effect to safeguard same.
3. That the applicant will provide all known locate information about the absent parent to the Bureau of Child Support Enforcement.
4. That the applicant will use this information exclusively for the collection of child support, or to establish paternity.

This instrument contains the entire agreement between the parties and no statement, promise or inducement made by any party hereto, which is not contained in this written contract, shall be valid or binding, and this contract may not be enlarged, modified or altered except in writing, signed by the parties and endorsed thereon. Witness our hands the day and year first written above.

Applicant Signature _____ Address _____

Authorized Representative
Bureau of Child Support Enforcement

Subscribed and sworn to before me, a Notary Public, this _____ day of _____, 19____.

My Commission Expires _____

NOTARY PUBLIC

Section:

ABSENT PARENT LOCATION

Subject:

Application Procedure for
Locate Only Services

4. Is he receiving Unemployment Compensation? ☐ Yes ☐ No What state? _____
5. List other names father goes by, if any. _____
6. What is his usual occupation? _____
7. Has he ever been arrested? ☐ Yes ☐ No (If Yes, place arrested) _____
8. Does he have a drivers license? ☐ Yes ☐ No From what state? _____
9. What is make, model and year of his car? _____
10. What is the license number of absent parent's car? _____
11. What are the names and address of his parents? (List names even if deceased) _____
- FATHER _____ MOTHER _____
Full Name Full Name (Use a different name, if it is requested)
- Address _____ Address _____
Street City State Zip Street City State Zip
12. List names and addresses of his other relatives and/or friends:
- | Name | Relationships | Complete Address |
|-------|---------------|------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
13. Provide any further information that you think may be helpful in locating the absent parent:

14. If you are not the legal parent of the children, state briefly why you are trying to Locate the absent parent:

ADDITIONAL REMARKS

Certification of Mother or Plaintiff I certify that the above information is true to the best of my knowledge

Signature of Mother or Plaintiff X _____ Date _____

Subscribed and sworn to before me, a Notary Public, this _____ day of _____ 19 _____

My Commission Expires _____

NOTARY PUBLIC

Residing at: _____

Section:

ABSENT PARENT LOCATION

Subject:

Application Procedure for
Locate Only Services

DEPARTMENT OF REVENUE
INVESTIGATIONS AND ENFORCEMENT DIVISION
CHILD SUPPORT ENFORCEMENT BUREAU

P.O. BOX 5048
HELENA, MONTANA 59604

 **STATE OF MONTANA**

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Applicant Signature

Address

Authorized Representative
Bureau of Child Support Enforcement

Subscribed and sworn to before me, a Notary Public, this _____ day of _____, 19____.

My Commission Expires _____

NOTARY PUBLIC

SECTION:

ABSENT PARENT LOCATION

SUBJECT:

Locate Sources for regional
Satellite, and County Offices
in Montana.

LOCATE SOURCES (Cont.):

- . City Offices (Occupational licenses, Personnel, Water and Sewer, etc.)
- . City, county, and Telephone Directories
- . Landlords
- . Utility Companies (Power and Telephone) see CS 301.6.
- . Credit Bureaus (through SPLS)
- . School Records through School Districts
- . Clinics and Hospitals (Must be Subpoenaed)
- . Department of Motor Vehicles (Microfische)
- . Driver's License Records (Through SPLS)
- . Parole and Probation Rosters
- . Veteran's Administration (Through SPLS)
- . Immigration and Naturalization
- . Other State Agencies (Income Tax, Vital Statistics, SRS, Worker's Compensation, etc. through SPLS).
- . Military
- . Other State Parent Locate Service (Through the Montana State Parent Locate Unit).
- . Federal Parent Locate Service (Through the Montana State Parent Locate Unit).

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Department of Revenue

SECTION:

ABSENT PARENT LOCATION

CHILD SUPPORT ENFORCEMENT

SUBJECT:

Federal Parent Locate
Request ProceduresFEDERAL PARENT
LOCATE SERVICE:

CERTIFICATION REQUIRED--Montana files a certification letter with FPLS and renews it upon request. The letter certifies to FPLS that the following requirements have been met:

1. The request is being made to locate an absent parent for the purpose of establishing paternity or for securing child support and no other purpose
2. The IV-D agency requesting FPLS has in effect protective measures to safeguard the personal information being transferred and received from the FPLS.
3. The use or disclosure of this information will be limited to the purposes prescribed by Title 45 CFR 302.18.

F.P.L.S.:

REQUIRED INFORMATION WHEN REQUESTING F.P.L.S.:

1. When Social Security Number is KNOWN:
 - . Case Number.
 - . Type of Case (AFDC, AFDC-Foster Care, NAFDC-Full Service or NAFDC-Locate Only).
 - . Absent Parent's First and Last Name.
 - . Absent Parent's Social Security Number.
2. When Social Security Number is UNKNOWN:
 - . Case Number.
 - . Type of Case (AFDC, AFDC-Foster Care, NAFDC-Full Service or NAFDC-Locate Only).

SECTION:

ABSENT PARENT LOCATION

SUBJECT:

Federal Parent Locate
Request Procedures

F.P.L.S. (Continued):

- . Absent Parent's First and Last Name.
- . Absent Parent's Date of Birth.
- . Absent Parent's Place of Birth.
- . Father's Name and Mother's Maiden Name.

PROCEDURE:

1. Submit Form CS-301, "Parent Locator Service" to Montana State Parent Locate Unit with checkmarks made in the appropriate boxes for the source you want action taken on.

NOTE: If Absent Parent is currently in the Armed Forces or receiving veterans benefits, you must note the branch of Service and the discharge date if applicable.

TYPES OF INFORMATION
PROVIDED BY F.P.L.S.:

1. IRS (Internal Revenue Service) provides address from latest Income Tax return on file for the Absent Parent.
2. SSA (Social Security Administration) provides the names and addresses of all employers listed for Absent Parent during the last reported year. If address is Military, SSA will automatically submit Absent Parents name to that branch of the service and current address will then be obtained and forwarded to inquiring state.

NOTE: SSA also provides a Social Security Number which was previously unknown if all the required information is submitted and SSN is in their files.

3. NPRC (National Personnel Records Center) provides address of Absent Parents employed by the Federal Government except those in Military Service.

SECTION:

ABSENT PARENT LOCATION

SUBJECT:

Federal Parent Locate
Request ProceduresTYPES OF INFORMATION
PROVIDED BY F.P.L.S. (Continued)

4. DOD (Department of Defense) provides the address of the Military Finance Center which is in charge of payroll for the Absent Parent and will also designate the branch of service.
5. V.A. (Veterans Administration) provides last address to which benefit check has been sent.
6. SSS (Selective Service System) provides address from draft registration file.
7. INS (Immigration and Naturalization Svc.) FPLS does not provide information from INS but has made arrangements with INS to honor requests for information from IV-D agencies.

NOTE: Local INS offices have been instructed to honor IV-D requests for addresses. Since each local INS office has access to INS central records, complete information can be obtained by submitting a request in letter form to the local INS office. (If local INS office does not comply with your request, send the response to the State Parent Locator for follow-up).

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Department of Revenue

SECTION:

ABSENT PARENT LOCATION

CHILD SUPPORT ENFORCEMENT

SUBJECT:

Form CS-301
"Parent Locator Service"INSTRUCTIONS:

All locate requests should be submitted on Form CS-301. This form is self-explanatory and should contain as much information as possible, including results of searches already completed by the region. It should be noted that the State Parent Locate Unit does not conduct searches of any sources already available to the regions such as microfiche for vehicle registrations, or income tax microfiche after 1981 etc. unless a reason for such request is noted.

The following is a list of the minimum items of information required in order to submit a locate request using form CS-301:

1. Absent Parent's name.
2. Absent Parent's Date of Birth or Social Security number.
3. Client's name.
4. Case Number.
5. Case Type: (Whether AFDC, NON-AFDC, etc.)
6. Name of Submitting Region or Region Number
ie. Butte, Helena, etc. or Reg.4, Reg. 1 etc.

NOTE: If the locate request is to be forwarded to another state for action, at least one of the following requirements should be present. (Otherwise, the case will be returned to the submitting region).

1. Last known address for Absent Parent in the state which request is being sent to.
2. Last known employer of Absent Parent in the state which request is being sent to.

SECTION:

ABSENT PARENT LOCATION

SUBJECT:

Form CS-301
"Parent Locator Service"INSTRUCTIONS: (Continued:)

3. The Absent Parent owns property in the state which request is being sent to. (Must note this on the CS-301 form).
4. The Absent Parent works in a specialized field of employment which has a large number of employers in the state which request is being sent to.
5. The Absent Parent has a very close friend or relative living in the state which request is being sent to.
6. The known habits of Absent Parent indicate he/she returns frequently to the state which request is being sent to.

SEE SAMPLE OF FORM CS-301 ON NEXT PAGE

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CS 301.5

Department of Revenue

SECTION:

ABSENT PARENT LOCATION

SUBJECT:

Form CS-20
Postal Verifications

CHILD SUPPORT ENFORCEMENT

ADDRESS INFORMATION REQUEST:

This is a one page form which is filled out and submitted to the Postmaster of the city or town designated on the address being verified. This form is submitted in single copy with the return address typed or stamped in the box at the lower left hand corner. It is NOT necessary to include a self-addressed envelope with request.

SEE SAMPLE OF FORM CS-20 ON NEXT PAGE

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CS 301.5

SECTION:
ABSENT PARENT LOCATION

SUBJECT:
Form CS-20
"Address Information Request"

CS20 4/85	
DEPARTMENT OF REVENUE LEGAL & ENFORCEMENT DIVISION CHILD SUPPORT ENFORCEMENT PROGRAM	
	STATE OF MONTANA
To: Postmaster Date: _____ <u>ADDRESS INFORMATION REQUEST</u> Please furnish this agency with the new address, if available, for the following individual or verify whether or not the address given below is one at which mail for this individual is currently being delivered. If the following address is a post office box, please furnish the street address as recorded on the boxholder's application form. Name: _____ Last Known Address: _____ I certify that the address information for this individual is required for the performance of this agency's official duties. _____ (Signature of Agency Official) _____ (Title)	
<u>FOR POST OFFICE USE ONLY</u>	
() MAIL IS DELIVERED TO ADDRESS GIVEN () NOT KNOWN AT ADDRESS GIVEN () MOVED, LEFT NO FORWARDING ADDRESS () NO SUCH ADDRESS () OTHER (SPECIFY): _____	NEW ADDRESS _____ BOXHOLDER'S STREET ADDRESS _____ Postmark/Date Stamp _____
Agency Return Address _____	
AN EQUAL OPPORTUNITY EMPLOYER	

Department of Revenue

SECTION:

ABSENT PARENT LOCATION

CHILD SUPPORT ENFORCEMENT

SUBJECT:

Utility Companies

INFORMATION AVAILABLE:

MONTANA POWER COMPANY---provides the following information:

- . Address
- . Date of birth (When available)
- . Drivers License Number (When available)
- . Social Security Number (When available)
- . Employer Name (When available)

INQUIRY INFORMATION:

The following information is needed for inquiry to Montana Power Company:

- . Full name of Absent Parent (Mandatory)
- . Date of Birth (Helpful but not required)
- . SSN (Helpful but not required)
- . D.L. Number (Helpful but not required)
- . Possible address of Absent Parent

Montana Power Company has agreed to furnish this information with the understanding that it will not be used in a way which will cause problems for them. In order to limit the possibility of wrongful use of this information, they have now requested that only authorized personnel from the Child Support Enforcement Program be allowed to access this information from them and a list of those persons be supplied to them in advance. Unless a prior agreement has been made with the local office of Montana Power Company to furnish information to a specific region, all requests must be made by only those persons who have been designated to access Montana Power Company, and inquiries must be made by calling their Helena Office at 442-4610 and asking for the Manager of the Credit Department.

SECTION:

ABSENT PARENT LOCATION

SUBJECT:

Utility Companies

INFORMATION AVAILABLE:

MONTANA/DAKOTA UTILITIES COMPANY---provides the following information:

- . Address
- . Date of birth (When available)
- . Drivers License Number (When available)
- . Social Security Number (When available)
- . Employer Name (When available)

INQUIRY INFORMATION:

The following information is needed for inquiry to Montana/Dakota Utilities Company:

- . Full name of Absent Parent (Mandatory)
- . Previous address of Absent Parent

Inquiries to Montana/Dakota Utilities Company must be made through the Supervisor of the Billings Office of Child Support Enforcement.

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Department of Revenue

SECTION:

INCOME AND ASSET LOCATION

CHILD SUPPORT ENFORCEMENT

SUBJECT:

Wage Requests
 Unemployment Claim Requests
 Unemployment Benefit Requests

SUMMARY:

Montana State Employment Security Division (ESD) is required by Section 508 of P.L. 95-566 "to provide specified information to the agency administering the State's Child Support Enforcement Program".

INFORMATION
AVAILABLE:

EMPLOYMENT SECURITY DIVISION---provides three types of asset information:

1. Wage Record
2. Unemployment Claim History
3. Unemployment Benefit Payment History
 (Social Security Number is required to access the above three files)

Wage Record Inquiry--provides the following:

- . SSN: Social Security Number
- . ACCT: Employer Account Number
- . Employer Name: Name of Employer
- . Q/YR: Quarter and year of wages
- . WAGES: Amount earned in quarter
 (Updated by ESD as soon as report is received from the employer)
- . WKS: Number of weeks worked in that quarter for employer listed
- . SRC: (not applicable)
- . NAME: 1st 4 ltrs of individuals last name
- . USED: The state FIPS code corresponding to the state to which the wages are assigned. 00 indicates the availability of the wages
- . DATE: The effective date of the wage data

SECTION:

INCOME AND ASSET LOCATION

SUBJECT:

Wage Requests

Unemployment Claim Requests

Unemployment Benefit Requests

INFORMATION
AVAILABLE: (Cont.)

NOTE: Wage records for railroad employees, self-employed persons, small agricultural employees and other private employees not covered by unemployment laws will not show up on inquiries. Also, Federal Employment will only show up when wages have been used for an unemployment claim.

(SEE SAMPLE WAGE SCREEN BELOW)

WAGE RECORD INQUIRY

W6

SSN:

ACCT	EMPLOYER NAME	Q/YR	WAGES	WKS	SRC	NAME	USED	DATE
.....								

TRANSACTION OPTION:

SECTION:

INCOME AND ASSET LOCATION

SUBJECT:

Wage Requests

Unemployment Claim Requests

Unemployment Benefit Requests

INFORMATION

AVAILABLE: (Cont.)

Claimant History Request--provides the following information on unemployment claims:

. BYB:	Benefit year beginning
. BYE:	Benefit year ending
. Name:	Name of claimant
. Addr:	Street Address of claimant
. City:	City of residence
. CO:	County of residence
. ST:	State of residence
. ZIP:	Zip Code of residence
. TELE:	Telephone number given by claimant to ESD at time of filing for unemployment (Might be message number)
. LIABLE STATE:	State which is liable for the payment of benefits
. ADDR CHG DATE:	Date of the most recent change of address given to ESD by a claimant
. FILE DATE:	Date when claim was filed
. CHILD SUP:	Y means yes, a voluntary or non-voluntary intercept of unemployment benefits is in place, and N means no intercept is in place
. PERCENTAGE:	Percentage of the benefit check being intercepted
. SUP AMNT:	Dollar amount of benefit being intercepted
. SUP CODE:	There are 2 letters in this section. The first indicates whether case is AFDC or NON-AFDC - The second letter indicates whether the intercept is Voluntary or not
. REGION:	Indicates Region/County code of the region which initiated the intercept
. SUPPRT DATE:	Indicates the date when intercept was established
. WBA:	Weekly Benefit Allowed
. DURATION:	Total weeks that claimant can draw benefits on this claim

SECTION:

INCOME AND ASSET LOCATION

SUBJECT:

Wage Requests
 Unemployment Claim Requests
 Unemployment Benefit Requests

INFORMATIONAVAILABLE: (Cont.)Claimant History Request--(Continued)

. TOTAL POSS: This is the total sum of money which claimant may receive on this claim

. NO.WEEKS PD: The total number of weeks which claimant has been paid thus far on current claim

. PD TO DATE: Total dollar amount which claimant has received on current claim thus far

(SEE SAMPLE CLAIM INQUIRY BELOW)

C L A I M A N T P R O F I L E D A T A

01

SSN:	CURRENT PROGRAM:	BYB:	BYE:
NAME:			
ADDR:			LOCAL OFFICE :
CITY:	CO: ST: ZIP:		CLAIM TAKER :
TELE:			ENTRY DATE :
LIABLE STATE:	ADDR CHG DATE:		FILE DATE :
.....			
DOT-1:	CHILD SUP : Y		ACTIVE ISSUES:
DOT-2:	PERCENTAGE:		CLAIM TYPE :
EDUC :	SUP AMNT :		OVERPAY BALN :
VET :	SUP CODE :		PRIOR YEAR :
UNION:	REGION :		WAIT WEEK IND:
	SUPPRT DTE:		FSC ELIG IND :
.....			
SEVERANCE AMT :	EB EFFECTIVE:		FSC EFFECTIVE:
PENSION AMOUNT:	EB FILE DATE:		FSC FILE DATE:
OTHER TYPE:	EB ENTRY DTE:		FSC ENTRY DTE:
.....			
WBA :	TOTAL POSS :		PD TO DATE :
DURATION:	NO.WEEKS PD:		FILE IND :
CLAIM STATUS :			TRANSACTION OPTION:

CS 302.1

SECTION:

INCOME AND ASSET LOCATION

SUBJECT:

Wage Requests

Unemployment Claim Requests

Unemployment Benefit Requests

INFORMATION

BENEFIT PAYMENT HISTORY--(Continued)

AVAILABLE: (Cont.)

(SAMPLE BENEFIT INQUIRY SCREEN)

10/01/85

B E N E F I T P A Y M E N T H I S T O R Y

07

SSN:

NAME:

BYE:

WBA:

REMAINING WEEKS:

NO. OF PAYMENTS:

PGM	PO	PO	BWE	PO	BATCH	CHECK	CHECK	PAY	AMOUNT	UNR	DISQ	TOTAL
CDE	NO	DOI		DOR	NUMBER	DOI	NUMBER	TYPE	PAID	FLG	REAS	CHECKS

TRANSACTION OPTION

October 1, 1985

Page 5 of 5

Department of Revenue

SECTION:

INCOME AND ASSET LOCATION

SUBJECT:

ESD Requests

CHILD SUPPORT ENFORCEMENT

PROCEDURE:

Responsibility

ACTION

Field Personnel

1. Indicate obligor's SSN
 2. Place an "X" in the wage column if the obligor's wages are being requested
 3. Place an "X" in the claims column if the obligor's unemployment claims are being requested
 4. Place an "X" in the benefits column if the obligor's unemployment benefit history is being requested
 5. Enter region number and initials of the person submitting the request in the respective columns
- NOTE: If satellite or County project, place an "S" or "C" in the region number column
6. Enter obligor's first and last name
 7. Enter recipients first and last name, or case number

When above 7 steps are completed,
Forward forms to SPLS for further action

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See sample ESD request form on next page

SECTION:

INCOME AND ASSET LOCATION

SUBJECT:

Procedure for Requesting ESD
Information

 STATE OF MONTANA CHILD SUPPORT ENFORCEMENT DEPARTMENT OF REVENUE P. O. BOX 5955 HELENA, MONTANA 59604						EMPLOYMENT SECURITY DIVISION WAGE, CLAIM BENEFIT REQUEST	
SOCIAL SECURITY NO.	WAGES	CLAIMS	BENE- FITS	REG. NO	EMPLOY INITIAL	OBLIGOR'S NAME	RECIPIENT NAME OR CASE NUMBER
①	②	③	④	⑤	⑤	⑥	⑦

Department of Revenue

Section:

INCOME AND ASSET LOCATION

CHILD SUPPORT ENFORCEMENT

subject:

Unemployment Intercept

INTRODUCTION: The Child Support Enforcement Program is required by Title 45 Section 302.65 CFR to withhold unemployment compensation from individuals with unmet support obligations being enforced by the IV-D agency. The Montana Child Support Enforcement Program has entered into an agreement with the Montana Department of Labor, Unemployment Insurance Division to intercept unemployment benefits of specified individuals. The Montana State parent Locate Unit Supervisor has been designated as the responsible person to perform these intercepts.

PROCEDURE:**ESTABLISHING UNEMPLOYMENT INTERCEPT****Responsibility****ACTION**

Locate Supervisor: Once each month, a computer match between all open Child Support cases and all active Unemployment Insurance Division Benefit files is requested. The resulting list of names is mailed to the respective regional offices.

Regional Personnel: Determine which names should be submitted to locate for a "Voluntary Assignment of Unemployment Benefits" letter and initiate involuntary intercept process on all remaining names by sending the Locate Unit Supervisor the necessary withholding documents.

Locate Supervisor: Upon receipt of documents from the regions, initiates the unemployment intercept with the UID system. In the case of those obligors designated by the regional offices for the voluntary assignment option, sends letters to those obligors and waits 10 days for response. After 10 days, notifies regional offices of those who did not respond within the time limit.

Section:

INCOME AND ASSET LOCATION

Subject:

Unemployment Intercept

Locate Supervisor: Enters those obligors who signed a Voluntary Assignment into the UID computer. Two copies of the voluntary assignment are made. One is sent to the region and the other is filed in the locate unit. The original copy is forwarded to the Unemployment Insurance Division for their files.

Regional Personnel: May initiate unemployment intercept at any time by sending an Order to Withhold, Wage Assignment, Assignment of Unemployment Insurance, Notice of Support Lien or any other authorized document to the Locate Unit. The Locate Unit will initiate the intercept and return a copy of the document with the date of intercept and the initials of the person putting the case on the computer.

INTERSTATE COOPERATION

Regional Personnel: All IV-D or IV-E (Foster Care) cases received from other states are assigned to the Montana CSEP Interstate Unit for processing. Unemployment Intercept is handled in the same manner as for Montana Cases.

All cases designated for enforcement in other states are prepared by the originating region and sent using the INTERSTATE CHILD SUPPORT ENFORCEMENT TRANSMITTAL form or the URESA PROCESS. Enforcement action then occurs in accordance with procedures and guidelines of the responding state.

RELEASING UNEMPLOYMENT INTERCEPT:

Regional Personnel: Releasing an obligor from an intercept occurs only after the region submits a "Release of Unemployment Intercept" form to the locate unit.

Locate Supervisor: Removes the intercept from the Unemployment Insurance Division computer system. Two copies of the release form are made, One is sent to the

Section:

Subject:

INCOME AND ASSET LOCATION

Unemployment Intercept

RELEASING UNEMPLOYMENT INTERCEPT: (Continued)

Locate Supervisor:

regional office with confirmation that release has taken place and the date of release. The second copy is maintained in the locate unit. The original release form is forwarded to the Unemployment Insurance Division for their files.

ANNUAL RECEIPT PROVIDED:

Regional Personnel:

Upon receipt of written request, an annual accounting of monies received through unemployment intercept and credited towards his or her support debt will be forwarded to the requesting obligor.

ADMINISTRATIVE:

The Unemployment Insurance Division computer System provides daily printouts to the CSEP showing the number of intercepts established or released during each day as well as a list of those persons who had their benefits intercepted and the amount of money intercepted from each.

In addition to the above, CSEP is provided with monthly and quarterly reports showing total intercepts established and released along with the total amount of money intercepted for that period.

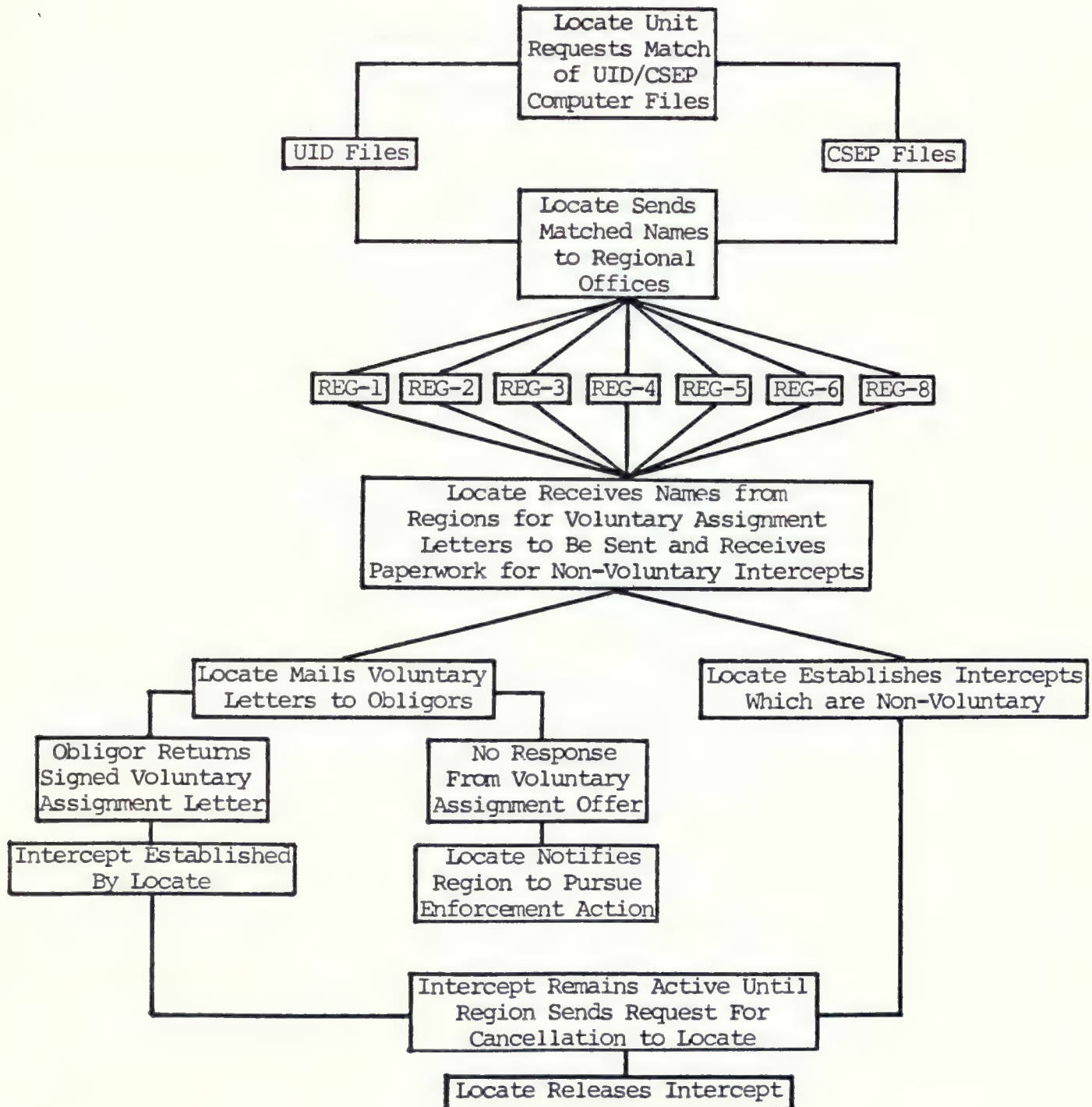
(See flow chart on next page)

Section:

INCOME AND ASSET LOCATION

Subject:

Unemployment Intercept



Department of Revenue

SECTION:

INCOME AND ASSET LOCATION

CHILD SUPPORT ENFORCEMENT

SUBJECT:

Accessing Montana State
Original Income Tax ReturnsAUTHORIZATION:

The only personnel authorized to obtain an original income tax return from the Montana State Income Tax Division of the Department of Revenue are:

- . Montana State Parent Locators
- . Legal and Enforcement Bureau Chief
- . NAFDC Staff Attorney

The only personnel authorized to request and view an original income tax return are:

- . CSEP Program Manager
- . Montana State Parent Locators
- . CSEP Regional Supervisors
- . CSEP Satellite Office Supervisors
- . NAFDC Unit Supervisor
- . All CSEP Staff Attorneys

PURPOSE:

To obtain detailed income, asset and/or location information about an obligor.

PROCEDURE:

Fill out and submit the Income Tax Division's "Outslip" form to the Montana SPLS. The name, social security number and the year of the tax return are required information for submittal.

NOTE: The requesting region will receive a zerox copy of the original income tax return. This zerox copy should not be retained for an indefinite period of time and should not be incorporated in the case file. The burning or shredding of this material should occur immediately after evaluation of contents. Maximum Recommended retention period after receipt is 10 days.

SEE SAMPLE OF "OUTSLIP" FORM ON NEXT PAGE

SECTION:

SUBJECT:

INCOME AND ASSET LOCATION

Accessing Montana State
Income Tax Returns

DATE	NUMBER	AMOUNT	Year	Date Filed	Reason	By	For	RETURN OUTSLIP				
								NAME (Last)	First	Spouse's Name	Street	Primary SS
Filing Status Check One: ☐ 1 Single ☐ 2 Married filing joint return ☐ 3 Married and both filing separate returns on this form ☐ 4 Married and both filing separate returns on separate forms ☐ 5 Married filing separate return and spouse is not filing												
Residency Status Check One: ☐ 1 Resident Full Year ☐ 2 Nonresident Full Year ☐ 3 Resident Part Year ☐ Give date of change												
Column A Column B Column A Column B												
Exemption 1. XXXXXXXXXXXX Federal Withheld 35.												
Exemption 2. At Previous Years 36.												
Exemption 3. At Other Years 37.												
Exemption 4. Other Taxes 38.												
Wages 5. % Medical Insurance 39.												
Interest 6. Medicine 40.												
Dividends 7. Other Medical 41.												
Business 8. Child Care 42. XXXXXXXXXXXX												
Gain/Loss 9. Energy 43.												
Rent 10. Casualty 44.												
Partnership 11. Other 45.												
Farm 12. Exemptions 46.												
Other Income 13. Invest. Credit 47.												
Adjustments 14. Campaign Fund 48A.												
Interest on State Bonds 15. Montana Withheld 49.												
Federal Refund 16. Estimate 50.												
Other 17. Tax Due 51.												
Allocation 18. Refund 52.												
Interest on Savings Bonds 19. Credit to Est. 53.												
Non-Montana Income 20. Penalty, LF 54.												
Retirement 21. Penalty, LP 55.												
State Refund 22. Interest 56.												
Other 23. O/S Credit 57.												
Allocation 24. Contractors Credit 58.												
Contributions 25. Investment 59.												
Interest Expense 26. Non-Fossil 60.												
☐ NO TAXPAYER ERROR SHEET												

Department of Revenue

SECTION:

USING A CREDIT BUREAU

SUBJECT:

CHILD SUPPORT ENFORCEMENT

Requesting
Information AvailableINFORMATION
AVAILABLE:

BY COMPUTER--the following information can be obtained on an individual with a credit bureau inquiry.

- .current address (CA)
- .current employer of subject (ES)
- .former address (FA)
- .birthdate of subject (BDS)
- .social security number of subject (SSS)
- .former employer of subject (EF or FE)
- .employer of spouse (EO)
- .social security number of spouse (sss-o)
- .birthdate of spouse
- .military employment
- .last date the file was active (FAD)
- .information on self-employment and date (ES)
- .verification of self-employment (VER)
- .bankruptcys
- .liens
- .judgements
- .installment loans
- .divorces, both filed and finalized
- .garnishments
- .mortgages
- .trusts
- .types of accounts, collateral
- .number of payments past due
- .number of months the contract is for and the monthly payment amount
- .consumer counselling actions
- .kinds of business transactions (credit cards, revolving accounts, joint, individual, etc.)
- .kinds of business classifications (bank, finance companies, medical, automobile dealers, boat dealers, furniture & department stores etc.)
- .trade histories
- .names and locations of reporting, inquiring or requesting agencies

SECTION:

USING A CREDIT BUREAU

SUBJECT:

Requesting
Information AvailableINFORMATION
AVAILABLE
(Cont.)

- .high credit amounts
- .balance due
- .names of defendants, attorneys and court numbers
- .account number for each credit bureau listed
- .subjects account number with each individual business or agency

BY PHONE If available, the following additional information may be obtained:

- .manual files for checking savings and checking information
- .assets from collection accounts
- .relatives, friends and other contracts
- .location of the subject or forwarding date (account forwarded to another agency that has the subject located, but has not necessarily given the new address to this agency)
- .payment history
- .total debt load of the subject
- .what it takes to get the subject to pay

NOT REFERRABLE:

PATERNITY--If the PATERNITY QUESTION HAS NOT BEEN RESOLVED and the alleged father's legal responsibilities have not been adjudicated, a request for a credit bureau check of that subject is NOT PERMITTED. (The Fair Credit Reporting Act does not permit disclosure of consumer reports to child support agencies seeking to establish paternity)

PROCEDURE:

1. Fill out the "Absent Parent Profile" section of form CS-34, "Credit Bureau Request" and submit to State Parent Locate Unit.
2. Indicate the requesting region, sign and date this request in lower right hand section of the form.

NOTE: Absent parent's name and current or former address INCLUDING ZIP CODE are mandatory for the processing of this report request.

SECTION:

USING A CREDIT BUREAU

SUBJECT:

Requesting
Information AvailableSPECIAL NOTICE:

The credit bureau computer system is programmed in such a way that whenever a user of that system enters an inquiry, the information which is input by the user automatically replaces the information that was in the system prior to the inquiry. Therefore, it is IMPERATIVE that any information which you send to the locate unit for credit bureau checks be accurate. If it is questionable information, it would be better to leave that area blank.

Example: If you submit a credit bureau request and indicate that the address you have is his current address when in fact, it is a former address, the current address in the computer will then be replaced by the former address that you furnished and the next user to inquire on this person will get the former address instead of his current one.

o o o

SEE SAMPLE OF FORM CS-34 ON NEXT PAGE

SECTION:

SUBJECT:

USING A CREDIT BUREAU

Requesting
Information Available

 STATE OF MONTANA CHILD SUPPORT ENFORCEMENT BUREAU DEPARTMENT OF REVENUE P.O. BOX 5955 HELENA, MONTANA 59604		CS-34 11/81 CREDIT BUREAU REQUEST	
ABSENT PARENT PROFILE	Absent Parent's Full Name		
	Last	First	Middle
	Social Security Number		Date of Birth
	Spouse's Name (current)		Spouse's Social Security Number
	Current Address		Former Address
	Other Information		
	Current Employment		Former Employment
	Former Address No. 2		
MANDATORY FIELDS MANDATORY FIELDS ARE FULL NAME, CITY AND STATE OF POSSIBLE LOCATION AND ZIP CODE.			
AREAS OF FOCUS	CHECK AS MANY TARGET AREAS AS NEEDED		Requesting Region
	ASSET LOCATION	☐	Requested By
	LOCATION OF ABSENT PARENT	☐	Date Requested
	CURRENT OR PAST EMPLOYMENT	☐	Signature of State PLS
	SOCIAL SECURITY NUMBER	☐	
	JUDGEMENTS	☐	
	PAYMENT OR CREDIT HISTORY	☐	
	OTHER	☐	

SECTION:

SUBJECT:

USING A CREDIT BUREAU

Requesting
Information Available

SAMPLE

CONFIDENTIAL REPORT										FOR (1) F8600		(2) FILE SINCE 4/81	
REPORT ON NAME: (3) WINSLOW, DONALD JOHN 3 WINSLOW, SKIPPER (4)				SOCIAL SECURITY NUMBER 123-45-6789				SPOUSE NAME (5) MARY					
CURRENT ADDRESS NEW AS OF 1/84 (6) 111 W. CAPTAIN BV., CHICAGO IL 60604				CLOCK AREA (7) 6 CM				SPOUSE SOCIAL SECURITY NO (8) 254-23-0056					
PRESENT EMPLOYER AND ADDRESS (9) COAST MANUFACTURING 2 W. WATER ST., CHICAGO IL				CLOCK # (10) 3550 BOAT DESIGNER		DATE VERIFIED SINCE (11) 4/83V 12/81H 25000Y							
BIRTH DATE (12) 3/51		NUMBER OF DEPENDENTS INCLUDING SPOUSE (13) 3		OWNS RENT'S BOARDS (14) R		TEL NO (15) 431-3386							
FORMER ADDRESSES (16) 444 N. LAKE AV., CHICAGO IL 60609 125 N. DEARBORN ST., CHICAGO IL 60626				FROM (17) 3/77R 3/73R		TO (18) 1/84R 3/77R							
FORMER EMPLOYER AND ADDRESS (20) GUARD CORPORATION 110 W. ENSIGN ST., CHICAGO IL				CLOCK # (21) 3/83V HULL CONSULTANT		DATE VERIFIED SINCE (22) 4/79H 12/81T		INCOME BASIS 18000Y					
SPOUSE EMPLOYER AND ADDRESS (23) NATIONAL BANK OF CHICAGO 1 E. MADISON ST., CHICAGO IL				CLOCK # (24) 4/83V TELLER		DATE VERIFIED SINCE (25) 10/80H		INCOME BASIS 12000Y					
SUBSCRIBER NAME		SUBSCRIBER CODE		DATE OPENED		DATE CLOSED		PRESENT STATUS		PAYMENT PATTERN		TYPE ACCOUNT	
ACCOUNT NUMBER		COLLATERAL		CREDIT		TERMS		BALANCE DOWNS		AMOUNT PAID DUE		REMARKS	
24 SEARS		25 D9900		26 1/80		27 \$700		28 3/83A		29 \$225		30 \$0	
1232432188		N5000		5/79		\$1000		31 3/83A		\$75		32 \$0	
36 DINERS CLUB		456677		6/81		C \$10K		33 3/83A		\$5800		34 \$0	
CHICAGO BANK		B5678		6/81		C \$10K		35 3/83A		\$5800		36 \$0	
55566		B1 LINCOLN		6/81		C \$1000		37 3/83F		\$0		38 \$0	
PEOPLES FINANCE		F5		6/81		C \$1000		39 3/83F		\$0		40 \$0	
21354								41 12x83				42 PPL	
43 INQR 3		DATE		ECOA		SUBCODE		SUBNAME		TYPE		AMT	
		4/1/83		C		F8600		SWANSON PRODUCTS					
		3/24/83		C		B6789		WESTSIDE BANK		AU		5K	
44 BNY861(EAS)		4/1/83											
45 COLLECTION		AGENCY		AMOUNT		STATUS		RPTD		PAID		CREDITOR	
		Y21		\$75		I UP		3/83R		12/83		MERCY HOSP. CHICAGO IL	
		Y321		\$100		I PD		4/83R		12/83		CHICAGO BANK, CHICAGO IL	
46 PUBLIC RECORD		SOURCE COURT		DATE		LIAB TYPE		ASSETS		PAID		DOCKET NUM.	
		Z1		3/83R		\$500 PC I		12/83		A10457		PLAINTIFF/ATTORNEY	
		PAID CIVIL JUDGMENT		11/83R		\$13K 13 C		\$50		8381234561		DAN LEVITZ	
47 CHAPTER 13 BANKRUPTCY		MISC		SEE FILE ON MARY ANDERSON									
48 CONSUMER STATEMENT		DINERS CLUB		BILL DOES NOT CORRESPOND WITH RESTAURANT RECEIPT									
49 **END OF CREDIT REPORT**													

TRANS UNION Credit Information Co.



FORM 3000

CRONUS CREDIT REPORTING ON-LINE NETWORK UTILITY SYSTEM

SECTION:

SUBJECT:

USING A CREDIT BUREAU

Requesting
Information Available

- 1) Your Trans Union Credit Information Co. subscriber inquiry code number
- 2) How long the consumer has been in the credit bureau files
- 3) Consumer's last, first and middle name or initial, also alias if any
- 4) Consumer's social security number
- 5) Spouse's name
- 6) Consumer's complete address and the date address first reported.
- 7) Trans Union Credit Information Co. market and submarket area in which the credit file resides. An asterisk (*) will indicate that some additional identifying information has been added to the file. This asterisk will remain for approximately 30 days from the time the information was added.
- 8) Spouse's social security number
- 9) Consumer's employer and address
- 10) Consumer's clock number, position and date hired (H), reported (R), or verified (V) by bureau
- 11) Consumer's income: Y = yearly; M = monthly; H = hourly; W = weekly; S = semi-monthly; B = bi-monthly; D = daily
- 12) Consumer's date of birth or estimated age (E-XX)
- 13) Number of dependents including spouse
- 14) Whether the consumer owns, rents or boards
- 15) Consumer's home phone number
- 16) Consumer's previous address
- 17) Dates that consumer resided at that address
- 18) Second previous address of consumer
- 19) Dates that consumer resided at that address
- 20) Previous employer and address
- 21) Clock number, position and date employment verified
- 22) Date consumer was hired and terminated at former place of employment
- 23) Spouse's complete employment, company name and address
- 24) Name of credit grantor where consumer has credit account
- 25) Credit grantor's Trans Union Credit Information Co. subscriber code number
- 26) Date that particular account was opened
- 27) Responsibility for repaying this debt (i.e., individual account, joint account, authorized user account, etc.)
- 28) The high credit on the account. (The highest amount ever owed)
- 29) The date closed/verified column has a date, and one of the indicators listed below:
 - a) A - verified by automated tape
 - b) C - date account was closed
 - c) F - date frozen, due either to repossession or charge-off
 - d) M - manually frozen
 - e) P - paid out date for an open account with a zero balance-not in dispute
 - f) V - verified manually
- 30) Balance owing as of date in closed/verified column
- 31) Credit Limit-the maximum amount of credit approved by the creditor
- 32) Amount past due as of date in closed/verified column
- 33) Number of payments past due as of date in closed/verified column
- 34) Payment pattern gives you the actual manner of payment ratings 1 through 5, for maximum of 12 months. It reads from left to right, with the most current verified entry on the left. The pattern then works its way back in time. If an X appears in the payment pattern it means that there was no information or rating available for this month. The first entry corresponds to the date in the date closed/verified column.
- 35) Type of account: R-revolving, I-installment, O-open-30, 60 or 90 day account, C-check credit, M-mortgage, and the ACB manner of payment rating system
- 36) The account number of the consumer for a particular grantor
- 37) The collateral for an installment loan
- 38) Type of installment loan: auto, boat, personal, airplane, etc.
- 39) Terms of sale are: number of payments, payment frequency and dollar amount due each payment. The codes are: X-unspecified, M-monthly, P-payroll deduction, S-semiannual, Q-quarterly, Y-yearly, W-weekly, B-biweekly.
- 40) Maximum delinquency consists of three columns: the date the maximum state of delinquency occurred on a particular account, the dollar amount involved and the rating at the time of delinquency.
- 41) Historical status is supplied directly by the credit grantor and displays in four columns: the first column for the number of months the credit grantor is reviewing the account and the second, third and fourth columns for the number of times the consumer has been an over 30 day account, over 60 day account, and over 90 day account, respectively.
- 42) Remarks and dispute codes column is used if the account is in some type of dispute or requires an explanation of the credit condition of the account.
- 43) This position shows the inquiries made on a consumer's credit file. The first number listed indicates the total number of inquiries posted. The first number listed indicates the total number of inquiries posted. The inquiry field shows the date of inquiry, the ECOA designator, your Trans Union subscriber inquiry code and your subscriber short name. The loan type and the loan amount (if applicable) are given after the short name.
- 44) Example of a foreign inquiry. Also note that inquiries made over six months prior to your accessing the file will not display the subscriber short name.
- 45) Collection accounts will be posted, if applicable. The subscriber code for the agency will be listed with the amount of the collection, the ECOA designator, the status of the account, the date reported to the bureau, the date it was paid (if applicable) and the creditor involved.
- 46) Public record information will also be listed on the credit file (if applicable). Public record information will be maintained on a consumer's file in compliance with the Fair Credit Reporting Act. Included in the public record information you will also find the location of the court where the public record was recorded, the court type, the date the public record was reported to the bureau, the ECOA designator, any liabilities or assets and the type of public record. Also listed will be the date paid (if applicable), the docket number, the plaintiff and attorney involved in the case.
- 47) Miscellaneous information may appear here.
- 48) A consumer statement may appear here.
- 49) Indicates the end of the last page of credit report.

SECTION:

SUBJECT:

USING A CREDIT BUREAU

Requesting
Information Available

ECCA INQUIRY AND ACCOUNT DESIGNATORS

A Authorized user of shared account
C Joint contractual liability
I Individual account for sole use of applicant

M Co-signer primarily liable for account
N Non-applicant spouse inquiry
P Participant in shared account which cannot be distinguished as C or A

S Co-signer no spouse relationship
T Relationship with account terminated
U Unassigned

REMARKS AND FCRA DISPUTE CODES

ADP Adjustment pending
BKL Bankruptcy loss
CCA Consumer counseling account
CLA Placed for collection
CLO Closed to further purchases by either debtor or creditor
CTS Contact subscriber
DIS Dispute following resolution
DRP Dispute resolution pending
FCS Foreclosure
INS Debt being paid by insurance
JUD Judgement obtained
MOV Moved, left no forwarding address
PPL Paid profit and loss
PRL Profit and loss write-off

RPN Refinanced account
RUD Repossession paid by dealer
RLP Repossession proceeds applied to debt
RPO Repossession
RRE Repossession redeemed
RS Dispute resolved
RVD Returned voluntarily paid by dealer
RVN Returned voluntarily
RVP Returned voluntarily proceeds applied to debt
RVR Returned voluntarily redeemed
SET Settled for less than full balance
STL Stale order or lost
TRF Transferred account
WEP Wage Earner Plan Account (Chapter XIII)

PUBLIC RECORD TYPES

AG Annuity Granted
AN Annuity
AO Annuity
AT Chapter 13 Adjudicated
BD Bankruptcy Dismissed
BR Bankruptcy
CA Criminal Arrest
CB Civil Judgement in Bankruptcy
CC Civil Suit Disputed
CD Civil Judgement Disputed
CH Charge Mortgage
CJ Civil Judgement
CN Change of Name
CR Criminal Judgment
CS Civil Suit Filed
DC Discharged Bankruptcy
DD Judgement for Defendant
DE Deed and Mortgage
DF Dismissed Foreclosure
DG Divorce Granted
DJ Delinquency Judgement
DM Divorced Dismissed
DP Judgement Paid Dismissed
DS Dismissal of Court Suit
DT Chapter 13 Dismissed
DV Divorce
EX Execute Writ
FC Foreclosure
FD Forfeiture
FR Foreclosure Real Estate Sold
FS Financing Statement
FT Federal Tax Lien
GN Garnishment
HS Homestead
JC Judgement by Confession
JD Judgement by Default
JM Dismissed Judgement
LP La Pendens
LT Landlord Tenant
MC Miscellaneous
ML Mechanics Lien
ND Notice of Default
NU Attachment no Judgement
NR Notice Non-Response
PC Paid Civil Judgement
PD Petition for Dissolution
PF Paid Federal Tax Lien
PL Release of State Tax Lien (CA)
PL Paid Tax Lien
PS Public Sale
PV Judgement Paid Vacated
RA Real Estate Attachment
RL Release Tax Lien
RM Release Mechanics Lien
RN Release Non-Response
RP Repay
RS Real Estate Attach Satisfied
RW Release of Wage Assignment
SD Separate Bill of Maintenance
SF Satisfied Foreclosure
SG Separate Bill of Maintenance Granted
SH Sheriff's Sale
SL State Tax Lien
SM Separate Bill of Maintenance
SP Separation
SS Satisfied Civil Suit
ST Chapter 13 Successful
TC Trusteeship Canceled
TD Trust Deed
TL Tax Lien Other
TR Trusteeship
WA Wage Assignment
WD Warranty Deeds
WL Welfare Lien
11 Chapter 11 Bankruptcy
13 Chapter 13 Bankruptcy

TYPE OF ACCOUNT

Open Account (30, 60 or 90 days) _____ O
Revolving or Option _____ R
Installment _____ I
Mortgage _____ M
Check Credit (line of credit) _____ C

USUAL MANNER OF PAYMENT

Not listed, too new to rate or approved but not used	00
Paid (or paid) within 30 days of billing, paid accounts as agreed	01
Paid (or paid) in more than 30 days, but not more than 60 days, or more than one payment past due	02
Paid (or paid) in more than 60 days, but not more than 90 days, or two payments past due	03
Paid (or paid) in more than 90 days, but not more than 120 days, or three or more payments past due	04
Paid (or paid) in 120 days or more	05
Making regular payments under wage earner plan or similar arrangement	07
Repossession	08
Voluntary Repossession	BA
Legal Repossession	BD
Repossession Redeemed	BR
Charged off to bad debt	06
Collection Account	BB
Unrated	UR
Unclassified	UC
Rejected	RJ

COURT CODES

CA County Auditor	GS General Session
CC County Clerk's Office	IC Inferior Court
CH Chancery Court	JU Justice of the Peace
CI Circuit Court	M1 1st Magisterial Court
CO Common Claims	M2 2nd Magisterial Court
CP Common Pleas	M3 3rd Magisterial Court
DC District Court	M4 Quarterly Court
DD Domestic Court	MJ Municipal Court
DS District Judge System	PR Probate Court
FE Federal District Court	SC Small Claims
	BU Superior Court

DATE INDICATORS

A Automated	P Paid Out
C Closed	R Reported but not verified
D Declined	S Slow Answering
RE Repossessed/Written off	T Terminated
I Indirect	V Verified
M Monthly Frozen	X No Reply
N No Record	

KINDS OF BUSINESS CLASSIFICATION

A Automotive
B Banks
C Clothing
D Department and Variety
F Finance
G Groceries
H Home Furnishings
I Insurance
J Jewelry and Cameras
K Contractors
L Lumber, Building Material, Hardware
M Medical and Related Health
N National Credit Card
O Oil and National Credit Card Companies
P Personal Services Other Than Medical
Q Mail Order Houses
R Real Estate and Public Accommodations
S Sporting Goods
T Farm and Garden Supplies
U Utilities and Fuel
V Government
W Wholesale
X Advertising
Y Collection Services
Z Miscellaneous

TYPE OF INSTALLMENT LOAN

AF Appliances	LE Leases
AP Furniture	MB Mobile Home
AP Airplane	MC Miscellaneous
AU Automobile	MT Motor Homes
BT Boat	NT Note Loan
CA Camper	PI Property
CM Co-Master	Improvement Plan
CO Consolidation	PL Personal Loan
CS Conditional Sales	PS Partly Secured
Contract	RE Real Estate
EO Equipment	RV Recreational Vehicle
FA Farm Equipment	SE Secured
PH FHA Loan	ST Student Loan
HG Household Goods	SV Savings Bank, Stock, Etc.
HI Home Improvement	UK Unknown
HW Hardware and	US Unsecured
Building Material	VA V.A. Loan
IN Insurance	

COLLECTION STATUS CODES

BL Discharged	PD Paid
in Bankruptcy	UK Unknown
DM Dismissed	UP Unpaid
DP Disputed	

PUBLIC RECORD SOURCE

The Public Record Source displays as an alpha indicator, a numeric indicator, and the city or county court source.
Example: 23 Cook County

TITLE ABBREVIATIONS

Director	DR	Secy	SE	Mayor	MA
Senior	SR	Chair	CH		
Senior	SE	Chair	CH		
Reverend	RV				

SECTION:

SUBJECT:

USING A CREDIT BUREAU

Requesting
Information AvailableCBI Systems
The Automated
Credit File

You can obtain an Automated Credit File report by phone, mail, messenger, computer-to-computer, or direct access through a terminal in your office.

Ask a CBI sales representative or affiliate about our system today.

CONSUMER REFERRAL SECTION:

IDENTIFICATION SECTION:
Subject & Spouse Name
Current Address
Former Address
Second Former Address
Also Known As

ID LINE:
Martial Status
Number of Dependents
Age or Birth Date
Social Security Number
Social Security Number Other

EMPLOYMENT SECTION:
ES—(Employment Subject) Position, Firm, Location, Date Employed, Date Verified, Monthly Salary, Date Left
EF—(Subject Former Employment)
E2—(Subject Second Former Employment)
EO—(Employment Other)

SUMMARY OF FILE ITEMS:
(93)—Number of Points Scored: Inquiry vs. File
5/76—Oldest Opening Date of Trade
4/84—Newest Reporting Date of Trade
PR/01—YES—File Has Public Records and/or Other Information
FB—YES—File Contains Information From Areas Not Directly Covered By CBI
ACCTS: 6—File Contains 6 Trade Lines
HC—High Credit Range \$465—5670
5—ONES—Four Trades in File Rated 1
1—FOUR—One Trade in File Rated 4

PUBLIC RECORDS OR OTHER INFORMATION:
BKRPT (Bankruptcy) Date Filed, Case Number, Liabilities, Assets, Type
COLL (Collection) Date Reported, date assigned to Collection Agency, Collection Agency name, number, Credit Grantor name or number, amount, date and status, balance date, Purge date, ECOA designator, account number
JUDG—(Judgment) Date Filed, Type, Court Number, Amount, Defendant, Case Number, Plaintiff, Disposition

INQUIRY SECTION:
INOS—Alert appears if three or more inquiries in past 90 days. (Actual File Shows 24 Months Inquiry History): Member Name, Member Number, and Date Member Inquired

OUT-OF-TOWN INFO FROM OTHER BUREAUS:
Date Information Was Given to Local Bureau
In-File Since Date, Reporting Bureau

ACROPAC II

CBI ATLANTA 3 EXECUTIVE PARK DR P O BOX 95007 ATLANTA GA 30347

FN-233

AALRED, JOHN A. GLORIA SINCE 06/15/72 FAD 4/02/84
9412, PEACHTREE, RD. ATLANTA, GA. 30302. FROM 02/81, BUYING
410, COOSEN, DR. SAN JOSE, CA. 95119
48, KENNEDY, DR. DETROIT MI, GA
AKA—ALLRED, JACK

MAR-M, DEPS-3, AGE-40, SSS-101-11-2131, SSO-523-46-6780

01 ES-ENGR, LOCKHEED, ATLANTA, GA, EMP 08/80, VER 02/83, \$3500
02 EF-ENGR, CENTRAL POWER, SAN JOSE, CA, LEFT 05/77
03 E2-ENGR, GENERAL MOTORS, DETROIT, MI, LEFT 05/74
04 EO-SECRETARY, FIRST NATL. BANK, ATLANTA, GA, EMP 08/80, VER 02/83, \$1500

SUM (93), 05/76-4/84, PR/OI-YES, FB-YES, ACCTS: 6, HC\$465-5670, 5-ONES, 1. FOUR

PUBLIC RECORDS OR OTHER INFORMATION:
05 07/76 BKRPT 162VC472, 4563723, LIAB\$25600, ASSET\$10500, JOINT, PERSONAL, VOL
06 01/83 COLL 12/82 401YC383 FOR DR WHITE \$532, 01/83 NEW LISTING
BAL-08/82 \$532, PURGE 05/89, 32452
07 07/80 JUDG, 401VC120, \$769, DEF-SUBJ, 80-30378, VISA, VER 01/81 SATISFIED, 12/80

INOS-SUBJECT SHOWS 3 INQUIRIES SINCE 08/83

FIRM/ID CODE	RPTD	OPND	H/C	TRM	BAL	P/D	CS	MR	ECOA	ACCOUNT NUMBER
FNB VISA *401BB755	04/84	10/80	890	60	500	0	R1	24	J	5512278040235
MAY CO *180DC127	04/84	05/76	635		0	0	R1	60	A	8886598932
30(01)80(01)90(01)	07/82-R3	06/82-R2	05/81-R4							DLA 05/81
CROCKER BK*162BB4209	03/84	06/81	5670	60M	3267	0	I1	28	J	7778856073
J C PENNEY *906DC185	04/84	07/80	485		350	105	R4	38	I	17942660
30(01)80(01)90(01)	03/84-R4	02/84-R3	01/84-R2							DLA 03/84
SEARS *401DC305	03/84	01/80	527		100	0	R1	34	J	52972348348
H F C *906FP335	03/84	06/80	4000	150	0	0	I1	36	J	1234-60789

DETROIT, MI INFILE SINCE 05/70, REPT 06/15/80

	BB	06/79	05/72	1200	12M	0	0	I1
DC	05/79	04/72	400	40	0	0	0	R1&

END OF REPORT CBI AND AFFILIATES - 4/02/84

FN:
FILE NUMBER—(For CBI Internal Security Use Only)
FAD:
FILE ACTIVITY DATE (Date of Last Activity on File)
SINCE:
SINCE Date File Was Established

TRADE:
First Line:
Firm/ID CODE—Name and Member Number of Reporting Company
RPTD—Date Item Was Reported
OPND—Date Account Was Opened with Reporting Company
H/C—High Credit (On "R" Accounts, May Indicate Credit Limit)
TRM—Monthly Repayment Amount or Number of Months or Years
BAL—Balance Owed as of Reporting Date
P/D—Past Due Amount
CS—Current Status of Account
0—Too New to Rate, Approved But Not Used
1—Paid Within 30 Days of Billing
2—Paid in More Than 30 Days of Billing, But Not More Than 60 Days
3—Paid in More Than 60 Days of Billing, But Not More Than 90 Days
4—Paid in More Than 90 Days of Billing, But Not More Than 120 Days
5—Account is at Least 120 Days Overdue
7—Making Regular Payments: Under Wage Earner Plan or Similar Arrangement
8—Repossession
9—Bad Debt: Placed for Collection, Skip

*—Trade information from automated tape supplier
MR—Months Reviewed
ECOA—Type Account (I—Individual, Joint, S—Shared, C—Co-Maker, A—Authorized Use, U—Undersigned, M—Maker, B—On Behalf of Another Person, T—Terminated)
ACCOUNT NUMBER—Subject's Account Number With Reporting Company

Second Line:
30(01)60(01)90(01)—Number of Times Account Was Rated
30.60, Or 90 Days Late
08/83-R4)—Most Recent High Status
08/83-R3)—Next Most Recent High Status
07/83-R2)—Highest During the Past 60 Months
DLA 03/84)—Date of Last Activity on the Account

DATE FILE WAS ACCESSED:

SECTION:

USING A CREDIT BUREAU

SUBJECT:

Requesting
Information Available

How To Read The Chilton Credimatic Report

1. "BU" Bureau name, address and consumer relations telephone number
2. "ID" Bureau number, File ID number
3. "SSN" Social Security Number, "BY" Birth Year
4. "CA" Current address, "CE" Current employer
5. "FA" Former address, "FE" Former employment
6. "FILE" File date, "A" Date of last activity
7. "PUB" Public Record - Judgments, Tax Liens, Bankruptcies, etc.
8. "*" Signals items of special importance
9. "D" ECOA account designation (Coding on reverse side)
10. Name and member number of credit grantor
11. "TYPE" Type of account, (Coding below)
"TERM" Monthly terms
12. "REPORTED" Date reported, "METHOD" (Coding below)
13. "OPEN" When account was opened,
"PAID" Last payment or activity date
14. "HIGH" High credit or credit line
15. "OWES" Current balance
16. "PAST DUE" Past due balance
17. "PAYMENTS LATE" 24-month payment history with firm (Coding on reverse side)
18. "MAX DEL" the highest number of delinquent payments within a five year period and the date the delinquency was reported
"MR" the number of months reviewed
19. "ACCT" Individual's account number with firm
20. INQUIRIES-within past year
"KB" Kind of business (Coding on reverse side)
"BUR" Bureau the firm is a member of
"GP" Group code number
"CODE" Firm's code number with that bureau

```

1 BU-CHILTON CREDIT RPTG., 3150 MAIN, AMERICAN CITY, US 86700, 902-745-1000
2 ID #100-12345678

J1 CUSTOMER, CHARLES EDWARD JR. JANE
3 SSN 123-45-6789 BY 50
4 CA 5523 PENROSE ST AMERICAN CITY, US 73221 90380 V11/80
CE AJAX CAR CO AMERICAN CITY, US HOA/81 MECHANIC
5 FA 8417 ANITA, AMERICAN CITY, US 311/79
6 FE BELL AUTO AMERICAN CITY, US HO1/75 TOA/81 MECHANIC
11/15/84 18H 20M TERM 1234

6 FILE 02/79 A11/15/84

7 PUB 0180 V0625/80 JUDGMENT FILED PARTY-GRAND X CO
CS877-145 CT 885 DIST AMERICAN CITY, US

8 D FIRM NAME TYPE REPORTED OPEN HIGH OWES PAST PAYMENTS LATE
18 IDENTITY CODE TERMS METHOD PAID DUE DUE
1 FIRST NAT BK I 150 10/31/84A 07/82 5000 1250 180 100000010000
BB-100-38-542 08/84 001000000010
ACCT #4235678 18 MAX DEL 1 10/84 MR-28
2 MAIN BK VISA R 10/31/84A 05/80 1000 350 08 00000-00
SC-225-465 08/84 1000-00010
ACCT #12345678901234 MAX DEL 1 10/85 MR-52
1 ACE JEWELERS O 05/20/84V 02/83 800 150 150 SEE COMMENT
J-100-333 10/83
ACCT #31428
COMMENT-CHARGED TO P&L
3 SEARS ROEBUCK R 55 10/10/84A 09/80 880 212 55 100000000000
DC-100-4818 BR-407 08/84 021000010000
ACCT #8881234567 MAX DEL 2 08/83 MR-48
4 COLLECT AGCY O 08/18/84M 03/82 328 328 328 SEE COMMENT
YA-100-8883 07/82
ACCT #2214321-18
COMMENT-PLACED FOR COLLECTION

28 INQUIRER NAME KB-BUR-GP-CODE INQ DATE INQUIRED TODAY
4 METRO ST BK BB-100-2740 11/15/84
4 AMERICAN BK BB-100-1008 08/04/84
1 CAMPBELL BROS DC-225-1418 04/08/84
1 AMER EXPRESS N-187-458 12/15/83

END CREDIMATIC SYSTEM REPORT #100-12345678
REPT 028 11/15/84 18H 21M TERM 1234 OPER LJS

```

Method Of Reporting

A=AUTODATA (via computer tape)
M=MANUAL
V=VOLUNTARY
Z=AUTODATA (revised manually)

Type of Account

O=OPEN (30 days or 90 days)
R=REVOLVING
I=INSTALLMENT (fixed number of payments)

Inquiries Listed

Inquiries containing a numeric prefix of 87, 88, 89, 90, 92, 93, 94, 95 or 99 in the member number indicate firms or credit bureaus from which no ledger information is available.

Continued on reverse side

SECTION:

USING A CREDIT BUREAU

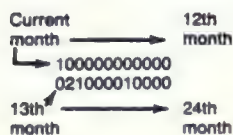
SUBJECT:

Requesting
Information Available**"D" ECOA
Account Designation**

- 0 = UNDESIGNATED — Applies to accounts opened prior to 6/77 when the designation is unknown.
- 1 = INDIVIDUAL — Account is for individual use of subject.
- 2 = JOINT CONTRACTUAL LIABILITY — Applies to accounts on which both spouses are contractually liable.
- 3 = AUTHORIZED USER — Applies to accounts on which subject is an authorized user. No contractual liability is implied.
- 4 = JOINT — Applies to shared accounts when the designation has not been more narrowly defined.
- 5 = CO-MAKER — Account for which the subject is cosigner and becomes liable if the maker defaults. No spouse relationship.
- 6 = ON BEHALF OF ACCOUNT — The liability for this account rests with the person on behalf of whom the account was opened. Applies primarily in Massachusetts.
- 7 = MAKER — An account for which subject is liable and is the primary maker but a cosigner has the liability if the subject defaults. No spouse relationship.
- 9 = SUBJECT IS NO LONGER ASSOCIATED WITH ACCOUNT — This is a special code to permit retention of history for a divorced or separated spouse who previously participated in a joint-type account. These accounts will not be updated since they are intended for history only.

**Kind Of Business
Classification****"KB"**

Code	Kind of Business
A	Automotive
B	Banks
BB	Bank Full Service
BC	Bank Credit Card
C	Clothing
D	Department and Variety
F	Finance
G	Groceries
H	Home Furnishings
I	Insurance
J	Jewelry and Cameras
K	Contractors
L	Lumber, Building Material, Hardware
M	Medical and Related Health
N	National Credit Card Companies and Airlines
O	Oil Companies
P	Personal Services Other Than Medical
Q	Mail Order Houses
R	Real Estate and Public Accommodations
S	Sporting Goods
T	Farm and Garden Supplies
U	Utilities and Fuel
V	Government
W	Wholesale
X	Advertising
Y	Collection Services
Z	Miscellaneous

**PAYMENTS LATE CAN
APPEAR TWO WAYS**

- 0 = Account is current
 1 = Account is 1 payment past due
 2 = Account is 2 payments past due
 3 = Account is 3 payments past due
 4 = Account is 4 or more payments past due

H12 03/02/01

The payment record may also show number of times past due in three categories: 30 to 59 days, 60 to 89 days, and 90 days or more preceded by the number of months history under review. (Example: H12 = 12 months history.) If no history is available, dashes (--) will print.

Department of Revenue

section:

OTHER LOCATION PROCEDURES

CHILD SUPPORT ENFORCEMENT

subject:

Military Personnel

OBTAINING
RECORDS:

BY LETTER--contact commanding officer for location or to obtain support from an absent parent in the armed forces.

INITIATING A SEARCH--the following information is required:

- . Name
- . Date of Birth
- . Social Security and/or Military ID Numbers.

Note: Rank/Classification helpful but not mandatory.

RESPONSE TIME--30 to 60 days.

FOLLOW-UP--a tracer may be sent on original search request or a phone call can be made.

INFORMATION
AVAILABLE:

ASSET--enlisted personnel in first three pay grades may be compelled to take out support allotments for dependents. Special addresses for the Army and Air Force are provided here:

U.S. ARMY

Commanding General
Finance Center
U.S. ARMY
Attn: Director, Allot-
ment & Deposit Operations
Indianapolis, Indiana 46249

U.S. AIR FORCE

AFAFC
3800 York Street
Denver, Colorado
80205

NOTE: all other addresses for asset and obligor location are provided below.

LOCATION--of active duty enlisted men, officers and retired personnel & Civilian ARMY employees

section:

subject:

ABSENT PARENT LOCATION

Military Personnel

ARMY CONTACTS:

ACTIVE DUTY ENLISTED MEN--write to:

Chief of Data Verification, Locate Section
Support Center
Fort Benjamin Harrison
Indianapolis, Indiana 46249

ACTIVE DUTY OFFICERS--

The Adjutant General
ATTN: AGPF
Department of the Army
Washington, D.C. 20315

RESERVES AND ROTC--

U.S. Army Reserve Components
Personnel and Administration Center
9700 Page Boulevard
St. Louis, Missouri 63132

RETIRED ARMY PERSONNEL--

Office of the Adjutant General
Separation and Retired Affairs Division
ATTN: AFPOAC
Washington, D.C. 20315

CIVILIAN ARMY EMPLOYEES--

Personnel Records Center
111 Winnebago Street,
St. Louis, Missouri 63118 (No Phone)

NAVY CONTACTS:

ACTIVE DUTY ENLISTED MEN--

Enlisted Services and Record Division
Bureau of Personnel
Department of the Navy
Washington, D.C. 20370

ENLISTED OFFICERS--

Officers Records Division
Bureau of Personnel
Department of the Navy
Washington, D.C. 20370

RETIRED ENLISTED NAVY MEN--Write to:

Naval Reserve Manpower Center
Bainbridge, Maryland 21905

RETIRED NAVY OFFICERS--

Officers Records Division
Bureau of Personnel
Department of the Navy
Washington, D.C. 20370

TO PHONE NAVY--for follow-up:

Department of Defense - 202 545-6700

section:

subject:

ABSENT PARENT LOCATION

Military Personnel

AIR FORCE
CONTACTS:ACTIVE DUTY ENLISTED MEN--Military Personnel, Records Center
AFPMDRM3

Randolph AFB, Texas 78148

ACTIVE OFFICERS--same as above.RETIRED ENLISTED AND OFFICERS--

USAFMPC (AFPM SDM)

Randolph AFB, Texas 78148

TO PHONE--for follow-up only:

Air Force World Wide Locator (512) 652-5774.

COAST GUARD
CONTACTS:ACTIVE DUTY AND RETIRED--

Commandant G-T-E

U.S. Coast Guard

Washington, D.C. 20590

TO PHONE--for follow-up only (202) 426-2088MARINE CORPS
CONTACTS:ACTIVE DUTY ENLISTED--

Commandant, USMC

Code DGH

Headquarters Marine Corps

Washington, D.C. 20380

ACTIVE DUTY OFFICERS--same as aboveRETIRED ENLISTED MEN--

National Personnel Records Center

GSA

9700 Page Boulevard

St. Louis, Missouri 53132

RETIRED OFFICERS--

Commandant, USMC

Code DGK

Headquarters Marine Corps

Washington, D.C. 20380

MONTANA NATIONAL
GUARD CONTACTS:ACTIVE AND RETIRED PERSONNEL--

Montana National Guard

Military Affairs

Department of Military Personnel

1100 North Main,

Helena, MT. 59601

TO PHONE--(406) 449-2708

section:

ABSENT PARENT LOCATION

subject:

Military Personnel

MERCHANT MARINE
CONTACTS:ACTIVE AND RETIRED MERCHANT MARINES--
(Non-military, but under authority of Military)

Coast Guard Commandant (G.M.V.P. 1-12)
Washington, D.C. 20593
Phone: (202) 426-1500

Note: If it is known what ship the Mariner works
on, or what union he is a member of,
contact:

Office of Labor and Training
Maritime Administration
Department of Transportation
Phone (202) 426-5757 for location and
contact information.

INFORMATION AVAILABLE--

- .Verification that subject is merchant marine
- .Name and location of the ship or company
employing the merchant marine.
- .How the subject can be contacted.

SEE SAMPLE REQUEST LETTER NEXT PAGE

section:

subject:

ABSENT PARENT LOCATION

Military Personnel

December 1, 1988

Enlisted Services and Records Division
Bureau of Personnel
Department of the Navy
Washington, D.C. 20370

RE: Harry Sailor

Dear Sir:

Our office is attempting to locate the above named individual concerning a matter of Montana State business.

Information is that Mr. Sailor may still be in the service, serving in the United States Navy.

Any information you may be able to supply our agency would be kept confidential according to appropriate State and Federal statutes.

Mr. Sailor's date of birth is December 7, 1941. His Social Security Number 000-00-0000 and his service number is 0-000-0000-000. His rank is Seaman First Class.

Thank you in advance for your cooperation.

Sincerely,

Department of Revenue

SECTION:

OTHER LOCATION PROCEDURES

SUBJECT:

Workers' Compensation

CHILD SUPPORT ENFORCEMENTMONTANA WORKERS'
COMPENSATION DIV.

Computerized information on individuals who have had an on-the-job accident or have filed an industrial accident claim.

INFORMATION AVAILABLE--

Date of birth	Date of first comp payment
Social Security Number	Number of Comp payments
Address	Weekly comp rate
Marital status	Comp paid in current year
Employer	Comp paid previous year
Occupation	Year
Length of employment	Fatal Amount
Wage rate/earnings	Date closed/reason closed
Accident Type	Subsequent Ins. amount
Type of disability	Date compensable
Legal fee amount	

PROCEDURE:

Complete form CS-300 "Workers' Compensation Information Request" form by filling in the section titled "Submittal Data" and submit this form to the Locate Unit. Upon the return of this form to the requestor, the codes that are listed on the response can be looked up by using section 304.2a of this manual.

SEE SAMPLE CS-300 FORM ON NEXT PAGE

SECTION:

SUBJECT:

OTHER LOCATION PROCEDURES

Workers' Compensation

 STATE OF MONTANA CHILD SUPPORT ENFORCEMENT BUREAU DEPARTMENT OF REVENUE P. O. BOX 5955 HELENA, MONTANA 59604		CS-300	
		WORKERS COMPENSATION INFORMATION REQUEST	
SUBMITTAL DATA	CLAIMANT'S NAME LAST	FIRST	MIDDLE
	SOCIAL SECURITY NUMBER		DATE OF BIRTH
	CLAIMANT'S ADDRESS HOUSE	STREET	CITY
WORKER'S COMPENSATION RESPONSE	ACCIDENT NO.		CHECKED
	CARRIER CODE		MAJOR IND.
	BIRTH		AGE
	OCCUPATION		LENGTH EMPLOYMENT
	SOURCE		NATURE
	OSHA REC.		DT 37
	DT COMPENSABLE		SAFETY INVS.
	DATE OF FIRST COMP. PAY		DATE OF LAST COMP PAY
COMPENSATION EXPERIENCE	NUMBER OF COMP. PAYMENTS		WEEKLY COMP. RATE
	TEMPORARY AMOUNT		PARTIAL AMOUNT
	PERMANENT AMOUNT		TOTAL COMP. PAID
	COMP. PAID CURRENT YEAR		FATAL AMOUNT
	COMP. PAID 1st PREVIOUS YEAR		SUBSEQUENT INSURANCE AMOUNT
	LEGAL FEE AMOUNT		CLOSED DATE
	REASON FOR CLOSURE:		REGION
	SIGNATURE		DATE REQUESTED
SPLS	ADDITIONAL INFORMATION FROM SPLS		

Department of Revenue

SECTION:

OTHER LOCATION PROCEDURES

SUBJECT:

Workers' Compensation
Codes and Descriptions

CHILD SUPPORT ENFORCEMENT

DECODING TABLES FOR INQUIRY--For information on
"Detail" codes contact SPLS.

OCCUPATIONAL
CODES:

<u>BASIC CODE</u>	<u>DESCRIPTION</u>	<u>DETAIL</u>
Blank	Unclassified	
000	Professional, technical	
010	Computer, math specialist, analysts, researchers	011-017
020	Engineers/Engineering techs	021-029
030	Physicians/related practitioner	031-039
040	Professionals	041-049
050	Religious, social/recreational professionals	051-054
060	Life, physical scientists, excluding physicians	061-068
070	Teachers, counselors	071-079
080	Technicians	081-088
090	Writers, artists, entertainers	091-098
100	Managers, directors, official administrators	
110	Directors, administrators, super- intendents	111-116
120	Financial managers	121-123
130	Buyers, shippers	131-134
140	Sales managers, department heads	141-144
150	Construction/industrial superin- tendents, inspectors/foremen	151-154
160	Operative managers	161-164
170	Officials, OD lodges, societies, unions	
180	Owners/proprietors, except farm	
200	Sales workers	
210	Advertising salesmen	
220	Auctioners	
230	Demonstrators, farm, home	
240	Peddlers, hucksters, door-to- door salesmen	241-242
250	Insurance agents, brokers, underwriters	
260	Stocks/bonds salesmen, bondsmen	
270	Traveling salesmen	

SECTION:

SUBJECT:

OTHER LOCATION PROCEDURES

Workers' Compensation
Codes and Descriptions

<u>BASIC CODE</u>	<u>DESCRIPTION</u>	<u>DETAIL</u>
280	Sales representatives	281-284
290	Sales clerks, cashiers	291-293
300	Clerical, kindred workers	
310	Accounting/statistical clerks	311-317
320	Communications clerks	321-323
330	Counter clerks	331-335
340	Messengers, carriers, readers	
350	Miscellaneous clerical workers	351-354
360	Office machine operators	361-365
370	School, library, court attendants/aides	
380	Secretaries, stenographers, typists, file clerks, receptionists	381-386
390	Student, NOC, RMI	391-392
400	Craftsmen, kindred workers	
410	House, building construction/maintenance craftsmen	411-419
420	Industrial craftsmen	421-428
430	Printers, typesetters, book-binders	431-437
440	Mechanics all kinds, except farm workers	441-448
450	Repairman, except mechanical	451-458
460	Installers	461-467
470	Miscellaneous craftsmen	471-477
480	Operative craftsmen	481-483
490	Craftsmen apprentices	491-498
500	Machinery/hand tool operatives	
510	Industry assembling, maintenance operatives	511-517
520	Meat processors, curers, butchers	521-525
530	Textile, laundry workers	531-535
540	Bottlers, canners, packers, wrappers, other than meat	541-546
550	Precision machine operatives	551-553
560	Construction, logging, sawmill operatives	561-568
570	Operatives, miscellaneous	571-572
580	Machine operatives	
600	Heavy equipment, transport equipment operatives	
610	Rail transport equipment operatives	611-615
620	Over-the-road transport equipment operatives	621-622

SECTION:

OTHER LOCATION PROCEDURES

SUBJECT:

Workers' Compensation
Codes and Descriptions

<u>BASIC CODE</u>	<u>DESCRIPTION</u>	<u>DETAIL</u>
630	Deliverymen, routemen	631-632
640	Taxi/bus drivers	641-644
650	Motormen	
660	Forklift, jitney, tow motor driver, operatives-	661-662 661-662
670	Heavy equipment operators	671-676
700	Laborers	
710	Animal caretakers, not farm	711-714
720	Industry/construction laborers	721-728
730	Warehousemen/freight handlers	731-735
740	Logging/sawmill laborers	741-749
750	Maintenance laborers	751-754
800	Farmers, ranchers, foresters,	
810	Beekeepers	811,812
820	Farm laborers	821-827
830	Farm owners/managers	831-832
840	Hatchery workers	841-842
850	Foresters, game wardens	851,852, 853
900	Service, private household workers	
910	Cleaning service workers	911-914
920	Food service workers	921-929
930	Health service workers	931-935
940	Recreation, transportation service workers	941-945
950	Hairdressers, barbers, kindred workers	951,952, 953
960	Child care workers	961,962, 963
970	Protective service workers	971-976
980	Personal service workers	981-985

ACCIDENT CODES:

<u>BASIC CODES</u>	<u>DESCRIPTION</u>	<u>DETAIL</u>
00	UNKNOWN, UNCLASSIFIED STRUCK BY OR STRIKING AGAINST-- Includes all kinds of strikes, hits, bumps, kicks, bites, stepping on, pushed into and thrown into or onto. Does not include falls due to loss of balance or jumps from elevation.	01-06

SECTION:

OTHER LOCATION PROCEDURES

SUBJECT:

Workers' Compensation
Codes and DescriptionsBASIC CODES DESCRIPTIONSDETAIL

10	CAUGHT IN OR BETWEEN--Includes injuries produced by being squeezed, pinched or crushed between a moving object and a stationary object, between two moving objects; or between parts of an object. Also caught under collapsing materials. Does not include injuries produced by flying or falling objects.	11-14
20	FALLS, JUMPS--Includes all falls and jumps due to loss of balance or equilibrium from an elevation or on the same level. Does not include being pushed or thrown into or onto objects.	21-29
30	ACCIDENTS INVOLVING MOTOR VEHICLES--Includes only injuries resulting from an accident involving a vehicle in which the injured was a passenger or driver. Does not include accidents occurring within or aboard vehicles during normal movement or while stationary.	31-34
40	STRAIN OR OVEREXERTION AND BODILY REACTION--Includes all injuries resulting from free bodily motion imposing stress or strain upon same part of the body and injuries resulting from excessive physical effort as in pulling or pushing.	41-48
50	CONTACT WITH TEMPERATURE EXTREMES AND OVEREXPOSURE--Includes burns, heat exhaustion, sunstroke, freezing or frostbite.	51-54

SECTION:

OTHER LOCATION PROCEDURES

SUBJECT:

Workers' Compensation
Codes and Descriptions

<u>BASIC CODES</u>	<u>DESCRIPTIONS</u>	<u>DETAIL</u>
60	CONTACT WITH ELECTRICAL CURRENT, ELECTRICAL SHOCK, EXPLOSION OR FLASHBACK--Includes injuries due to shock, explosion or flashbacks and contact with electrical current.	61-63
70	INHALATION, ABSORPTION, SWALLOWING OR INGESTION OF HARMFUL SUBSTANCES--Includes drowning, poisoning, chemical burns, irritations, allergic reaction, contagious diseases and radiation burns.	71-75
80	RUBBED OR ABRADED--Includes rubs and abrasions caused by pressure, vibration or friction.	81-86
90	ACCIDENT TYPE, OTHER COMBINATIONS OF ANY OF THE ABOVE CLASSIFICATIONS--Used only when unable to determine which in a series of events was the actual injury-producing event, or in the case of multiple major injuries caused by a series of events.	

. PART OF
BODY:

<u>BASIC CODES</u>	<u>DESCRIPTIONS</u>	<u>DETAIL</u>
Blank	Unknown, unspecified	
00	Head, face	01-09
10	Body system	11-16
20	Trunk, neck	21-22
23	Back	23-29
30	Arms, wrists	31-37
40	Hands, fingers	41-47
50	Upper extremities, multiple combinations of arms, hands and fingers	51-55
60	Legs, ankles	61-67
70	Feet, toes	71-78
80	Lower extremities, multiple combinations of legs, feet and toes	81-84
90	Body, multiple	91-92

SECTION:

SUBJECT:

OTHER LOCATION PROCEDURES

Workers' Compensation
Codes and Descriptions. NATURE OF
INJURY:

<u>BASIC CODES</u>	<u>DESCRIPTION</u>	<u>DETAIL</u>
Blank	UNCLASSIFIED, UNABLE TO DETERMINE	
10	BURNS, SCALDS, AND FREEZING-- Includes burns, scalds due to heat, chemicals, radiation, sunburn, sunstroke, electrocution, freezing and frostbite.	11-16
20	OPEN WOUNDS--Includes abrasions, small cuts, splinters, animal bites, foreign body in eye, punctures, stabbing wounds, amputations and infections resulting from open wounds.	21-24
25	AMPUTATION	25-26
30	STRAINS--Includes sprains, strains, dislocations, heart attack due to overexertion or injury, hernia or rupture and inflammation or irritation of joints due to strain.	31-36
50	FRACTURES--All broken bones, including teeth, crushing injuries resulting primarily in broken bones, skull fracture and resultant.	51-54
60	NATURE OF INJURY, OTHER--Includes drowning, asphyxia, strangulation, hearing loss or impairment, snake or insect bite, shock (not electrical), fainting, dizziness, seizures, damage to artificial devices, i.e., artificial leg.	61-67
70	INDUSTRIAL DISEASES--Includes contagious diseases, dermatitis, rashes, poisoning (except insect bites), eye, ear and respiratory diseases, heart and cardiovascular diseases.	71-78

SECTION:

OTHER LOCATION PROCEDURES

SUBJECT:

Workers' Compensation
Codes and Descriptions

<u>BASIC CODES</u>	<u>DESCRIPTIONS</u>	<u>DETAIL</u>
80	BRUISES, CONTUSIONS--All bruises and contusions (no broken bones and skin intact), also includes internal injuries due to impact.	81-83
90	MULTIPLE INJURIES--Includes combinations of major injuries, cuts and bruises, fractures and cuts, bruises and fractures, multiple major injuries.	91-99

COUNTIES OF
OCCURANCE:

<u>NO.</u>	<u>COUNTY</u>	<u>NO.</u>	<u>COUNTY</u>
01	Beaverhead	31	Mineral
02	Big Horn	32	Missoula
03	Blaine	33	Musselshell
04	Broadwater	34	Park
05	Carbon	35	Petroleum
06	Carter	36	Phillips
07	Cascade	37	Pondera
08	Choteau	38	Powder River
09	Custer	39	Powell
10	Daniels	40	Prairie
11	Dawson	41	Ravalli
12	Deer Lodge	42	Richland
13	Fallon	43	Roosevelt
14	Fergus	44	Rosebud
15	Flathead	45	Sanders
16	Gallatin	46	Sheridan
17	Garfield	47	Silver Bow
18	Glacier	48	Stillwater
19	Golden Valley	49	Sweetgrass
20	Granite	50	Teton
21	Hill	51	Toole
22	Jefferson	52	Treasure
23	Judith Basin	53	Valley
24	Lake	54	Wheatland
25	Lewis & Clark	55	Wibaux
26	Liberty	56	Yellowstone
27	Lincoln		
28	McCone		
29	Madison		
30	Meager	60	Out-of-State

Department of Revenue

SECTION:

OTHER LOCATION PROCEDURES

SUBJECT:

Adult Parole and Probation

CHILD SUPPORT ENFORCEMENTADULT PAROLE
AND PROBATION

COMPUTERIZED REPORT--provides monthly statewide
lists of all Montana subjects on parole or
probation.

Information provided:

- .Full name
- .Crime of Conviction
- .Parole, probation, or prison status
- .Unauthorized leave, escape, temporary release
status
- .Current address, city, county and state
(If other than Montana)
- .Date of current address
- .County name in which crime occurred
- .Correction number
- .Duration of sentence (parole, probation or
prison term)
- .Name of Parole or Probation Officer

PROCEDURE:

Submit name and social security number to
Montana State Parent Locate Unit or call
with above information and immediate check
of computer printout will be made.

Department of Revenue

SECTION:

OTHER LOCATION PROCEDURES

CHILD SUPPORT ENFORCEMENT

SUBJECT:

State Identification by
Social Security NumberSOCIAL SECURITY
NUMBER:

IDENTIFIES--the state of issuance. This number consists of three groups of digits, separated by hyphens:

- .The first three digits indicate state of issue
- .The second two-digit group indicates group number
- .The last four digits indicate serial number

STATE ISSUANCE CODES--

001-003	New Hampshire	440-448	Oklahoma
004-007	Maine	449-467	Texas
008-034	Massachusetts	468-477	Minnesota
035-039	Rhode Island	478-485	Iowa
040-049	Connecticut	486-500	Missouri
050-134	New York	501-502	North Dakota
135-158	New Jersey	503-504	South Dakota
159-211	Pennsylvania	505-508	Nebraska
212-220	Maryland	509-515	Kansas
221-222	Delaware	516-517	Montana
223-231	Virginia	518-519	Idaho
232-(94)	W. Virginia	520	Wyoming
233-236	W. Virginia	521-524	Colorado
232-(30)	N. Carolina	525-585	New Mexico
237-246	N. Carolina	526-527	Arizona
247-251	S. Carolina	528-529	Utah
252-260	Georgia	530	Nevada
261-270	Florida	531-539	Washington
268-302	Ohio	540-544	Oregon
303-317	Indiana	545-573	California
318-361	Illinois	574	Alaska
362-386	Michigan	575-576	Hawaii
387-399	Wisconsin	577-579	Washington D.C.
400-407	Kentucky	580-(18)	Virgin Islands
408-415	Tennessee	580-584	Puerto Rico
416-424	Alabama	586-(12)	Guam
425-428	Mississippi	586-(28)	American Samoa
587	Mississippi	586-(62)	Phillipines
429-432	Arkansas	700-729	Railroad
433-439	Louisiana		Retirement Series

Department of Revenue

SECTION:

OTHER LOCATION PROCEDURES

CHILD SUPPORT ENFORCEMENT

SUBJECT:

Polk Directories
("Reverse")REVERSE
DIRECTORIES:

THREE WAY SEARCH KEY--provides a useful locate technique to aid in the process of locating an individual in the community.

FORMAT--the following basic components are common to all Polk or Reverse Directories:

- Alphabetical listing of residents and business with address and phone number
- Index by street address indicating names of occupant(s) and telephone number
- Numerical list of telephone numbers indicating the name the number is listed under

USES--of Polk Directories are diversified, however specific examples follow:

- Verification of information
- Provides new information (address, phone, asset, identification of neighbors and local business, etc.)
- Provides phone numbers for addresses, or addresses from phone numbers when subject is living with someone else, where listing may not be in his name

INFORMATION AVAILABLE--separated by three sections as follows:

SECTION:

OTHER LOCATION PROCEDURES

SUBJECT:

Polk Directories
("Reverse")REVERSE
DIRECTORIES
(Cont.):1. Alphabetical Directory--provides:

Correct Full Name	Wife's Name and Initial
Occupation	Telephone
Employer	Homeowner Designation
Complete Street Address	Suburban Designation
Student 18 YOA/Older	Retiree
Cross Reference of Surnames	Business Partnership
Out-of-Town Resident	Husband/Wife Employment
Armed Forces Member	Corporation Showing -
Branch of Service	Officers and Business
"r" Resident or Roomer	Unmarried Resident
"h" Householders	Unemployed Resident
Church Name	Pastor's Name
More Than One Adult	Bold Type - Paid Listing
in Household	Business Firms
Owner of Business Showing	
Business Name	

2. Numerical Telephone Directory--provides:

Dial Code
Telephone Numbers in sequence
Name of Telephone Subscriber

3. Street Directory--provides:

Complete Street Description
Zip Code
Homeowner
New Householder this Addition
Telephone Number
Homeowner w/o Telephone
Under Construction
Intersecting Streets
Apartment Building & Occupants
Complete Street Address Including Apartment Number
Branch of Business Firm
Business Operated Out-of-Home
Suburban Designation
Pay Telephones
Vacant Lots
Office Building Showing Room Number and Occupant
Nature of Business Shown When Not Explanatory
Multiple Business Address (Business & Residence are the same)

SECTION:

OTHER LOCATION PROCEDURES

SUBJECT:

Polk Directories
("Reverse")REVERSE
DIRECTORIES
(CONT.):3. Street Directory--provides (Cont.):

Rentor Without Telephone
Nearest Telephone
Government Offices Shwoing Department and Telephone
Number

Department of Revenue

SECTION:

OTHER LOCATION PROCEDURES

CHILD SUPPORT ENFORCEMENT

SUBJECT:

Federal Inmate
Locator ServiceFEDERAL INMATE
LOCATION:BUREAU OF PRISONS INMATE LOCATOR--provides location
of current and prior Federal Inmates.INFORMATION AVAILABLE--

- Current or past location of incarceration
- Crime or sentence resulting in incarceration

METHOD OF ACCESS--either of the following procedures:By Phone--Colleen White, Inmate Locator
(202)-724-3126

between 7:30 a.m. and 4:00 p.m. EST

NOTE: maximum five requests per phone
call.By Letter--Bureau of Prisons Inmate Locator
ATTN: Colleen White
320 1st St. N.W. Washington
Washington, D.C. 20534MANDATORY ACCESS INFORMATION--Current Inmates--Name and date of birthPrior Inmates--Name, prison number, and date
of birth

Department of Revenue

SECTION:

OTHER LOCATION PROCEDURES

CHILD SUPPORT ENFORCEMENT

SUBJECT:

Montana Fish, Wildlife and
Parks Special License FilesMONTANA STATE FISH, WILDLIFE AND PARKS
SPECIAL LICENSE FILES:

Information about all hunters who apply for special license permits is put into an on-line computer system which is available to the Parent Locate Unit. This system is most current at the end of August of each year, right after the drawings have been held for the licenses. The system is not available from approximately June through August of each year while the files are being updated with the current information. The Parent Locate Unit receives microfiche containing the computer information from the prior year, once the new files are updated near the end of August of each year. Field personnel can contact the Locate Unit for this information.

INFORMATION AVAILABLE:

NAME OF SPORTSMAN
ADDRESS OF SPORTSMAN
PHONE NUMBER OF SPORTSMAN
DRIVERS LICENSE NUMBER (Not Available as yet)
DATE OF LAST UPDATE IN COMPUTER SYSTEM
BIRTHDATE OF SPORTSMAN

(sample of printout shown below)

FG05

STATE OF MONTANA

DEPARTMENT OF FISH, WILDLIFE AND PARKS - LICENSE AND DRAWING SYSTEM

RESIDENT SPORTSMAN-ID - 0000000 CARD -N BIRTH 00/00/00
ANYONE, JOHN H. BATCH -0000/..... EYES-.. HT-000
BOX 000..... PHONE -(406)000-0000 HAIR-.. WT-000
..... DRIVERS L -.....
HELENA,.....MT 59601 LAST CHG -00/00/00 C DISPLAY OPT (G,L,D)G

**CHANGE SPORT-ID AND/OR OPTION, THEN ENTER FOR NEW DISPLAY*PA2=CANCEL

Department of Revenue

SECTION:

RESOURCE INFORMATION

SUBJECT:

CHILD SUPPORT ENFORCEMENT

County License Plate Numbers

<u>NUMBER</u>	<u>COUNTY</u>	<u>COUNTY SEAT</u>	<u>NUMBER</u>	<u>COUNTY</u>	<u>COUNTY SEAT</u>
1.	Silver Bow	Butte	29.	Rosebud	Forsyth
2.	Cascade	Great Falls	30.	Deer Lodge	Anaconda
3.	Yellowstone	Billings	31.	Teton	Choteau
4.	Missoula	Missoula	32.	Stillwater	Columbus
5.	Lewis & Clark	Helena	33.	Treasure	Hysham
6.	Gallatin	Bozenam	34.	Sheridan	Plentywood
7.	Flathead	Kalispell	35.	Sanders	Thompson Falls
8.	Fergus	Lewistown	36.	Judith Basin	Stanford
9.	Powder River	Broadus	37.	Daniels	Scobey
10.	Carbon	Red Lodge	38.	Glacier	Cutbank
11.	Phillips	Malta	39.	Fallon	Baker
12.	Hill	Havre	40.	Sweet Grass	Big Timber
13.	Ravalli	Hamilton	41.	McCone	Circle
14.	Custer	Miles City	42.	Carter	Ekalaka
15.	Lake	Polson	43.	Broadwater	Townsend
16.	Dawson	Glendive	44.	Wheatland	Harlowton
17.	Roosevelt	Wolf Point	45.	Prairie	Terry
18.	Beaverhead	Dillon	46.	Granite	Philipsburg
19.	Choteau	Fort Benton	47.	Meagher	White Sulphur Springs
20.	Valley	Glasgow			
21.	Toole	Shelby	48.	Liberty	Chester
22.	Big Horn	Hardin	49.	Park	Livingston
23.	Mussehshell	Roundup	50.	Garfield	Jordan
24.	Blaine	Chinook	51.	Jefferson	Boulder
25.	Madison	Virginia City	52.	Wibaux	Wibaux
26.	Pondera	Conrad	53.	Golden Valley	Ryegate
27.	Richland	Sidney	54.	Mineral	Superior
28.	Powell	Deer Lodge	55.	Petroleum	Winnett
			56.	Lincoln	Libby

Department of Revenue

SECTION:

RESOURCE INFORMATION

SUBJECT:

CHILD SUPPORT ENFORCEMENT

Employment Responses/State
Codes and Abbreviations

<u>STATES</u>	<u>CODE</u>	<u>ZIP ABBR.</u>	<u>STATES</u>	<u>CODE</u>	<u>ZIP ABBR.</u>
Alabama	01	AL	New Jersey	28	NJ
Arizona	02	AZ	New Mexico	29	NM
Arkansas	03	AR	New York	30	NY
California	04	CA	N. Carolina	31	NC
Colorado	05	CO	N. Dakota	32	ND
Connecticut	06	CT	Ohio	33	OH
Delaware	07	DE	Oklahoma	34	OK
Florida	08	FL	Oregon	35	OR
Georgia	09	GA	Pennsylvania	36	PA
Idaho	10	ID	Rhode Island	37	RI
Illinois	11	IL	S. Carolina	38	SC
Indiana	12	IN	S. Dakota	39	SD
Iowa	13	IA	Tennessee	40	TN
Kansas	14	KS	Texas	41	TX
Kentucky	15	KY	Utah	42	UT
Louisiana	16	LA	Vermont	43	VT
Maine	17	ME	Virginia	44	VA
Maryland	18	MD	Washington	45	WA
Massachusetts	19	MA	W. Virginia	46	WV
Michigan	20	MI	Wisconsin	47	WI
Minnesota	21	MN	Wyoming	48	WY
Mississippi	22	MS	District of Columbia	49	DC
Missouri	23	MO	Alaska	50	AK
Montana	24	MT	Hawaii	51	HI
Nebraska	25	NB	Canada	52	CA
Nevada	26	NV	Canal Zone	53	CZ
New Hampshire	27	NH	Puerto Rico	54	PR
			Virgin Islands	55	VI

Department of Revenue

SECTION:

RESOURCE INFORMATION

CHILD SUPPORT ENFORCEMENT

SUBJECT:

Employment Responses/Local
Job Service Office CodesLOCAL OFFICE CODESCITY

01	Anaconda
03	Billings
05	Bozeman
07	Butte
12	Cutbank
40	Dillon
16	Glasgow
11	Glendive
13	Great Falls
18	Hamilton
15	Hayden
17	Helena
19	Kalispell
23	Lewistown
46	Libby
25	Livingston
27	Miles City
29	Missoula
30	Polson
34	Shelby
35	Sidney
47	Thompson Falls
39	Wolf Point

Department of Revenue

SECTION:

RESOURCE INFORMATION

CHILD SUPPORT ENFORCEMENT

SUBJECT:

States Providing SSN's
on Drivers LicensesSTATES--providing Social Security Numbers on drivers licenses:

Alaska
Arizona
Florida
Georgia
Idaho
Indiana
Iowa
Kentucky
Louisiana
Maryland
Massachusetts
Mississippi
Missouri
Montana (SSN will show up in 1987 if Driver volunteers SSN)
Nevada
New Mexico
North Dakota
Ohio
Oklahoma
South Dakota
Vermont
Virginia
West Virginia
Wisconsin
Wyoming

SECTION:

SUBJECT:

RESOURCE INFORMATION

R202 Client Directory Report
SRS Microfische InterpretationCLIENT DIRECTORY
REPORT (Cont.):A. ITEM EXPLANATIONS--County Codes

01	Beaverhead	29	McCone
02	Big Horn	30	Meagher
03	Blaine	31	Mineral
04	Broadwater	32	Missoula
05	Carbon	33	Musselshell
06	Carter	34	Park
07	Cascade	35	Petroleum
08	Choteau	36	Phillips
09	Custer	37	Pondera
10	Daniels	38	Powder River
11	Dawson	39	Powell
12	Deer Lodge	40	Prairie
13	Fallon	41	Ravalli
14	Fergus	42	Richland
15	Flathead	43	Roosevelt
16	Gallatin	44	Rosebud
17	Garfield	45	Sanders
18	Glacier	46	Sheridan
19	Golden Valley	47	Silver Bow
20	Granite	48	Stillwater
21	Hill	49	Sweet Grass
22	Jefferson	50	Teton
23	Judith Basin	51	Toole
24	Lake	52	Treasure
25	Lewis & Clark	53	Valley
26	Liberty	54	Wheatland
27	Lincoln	55	Wibaux
28	Madison	56	Yellowstone

B. TYPE OF ASSISTANCE

F -Financial
M -Medical
FM-Financial/Medical

C. CATEGORY

F-Family
D-Disabled
A-Aged
B-Blind

D. CASE NUMBER--Self Explanatory

SECTION:

RESOURCE INFORMATION

SUBJECT:

R202 Client Directory Report
SRS Microfische InterpretationCLIENT DIRECTORY
REPORT (Cont.):E. SIG-REL--Status in grant relationship of payee
to the additional

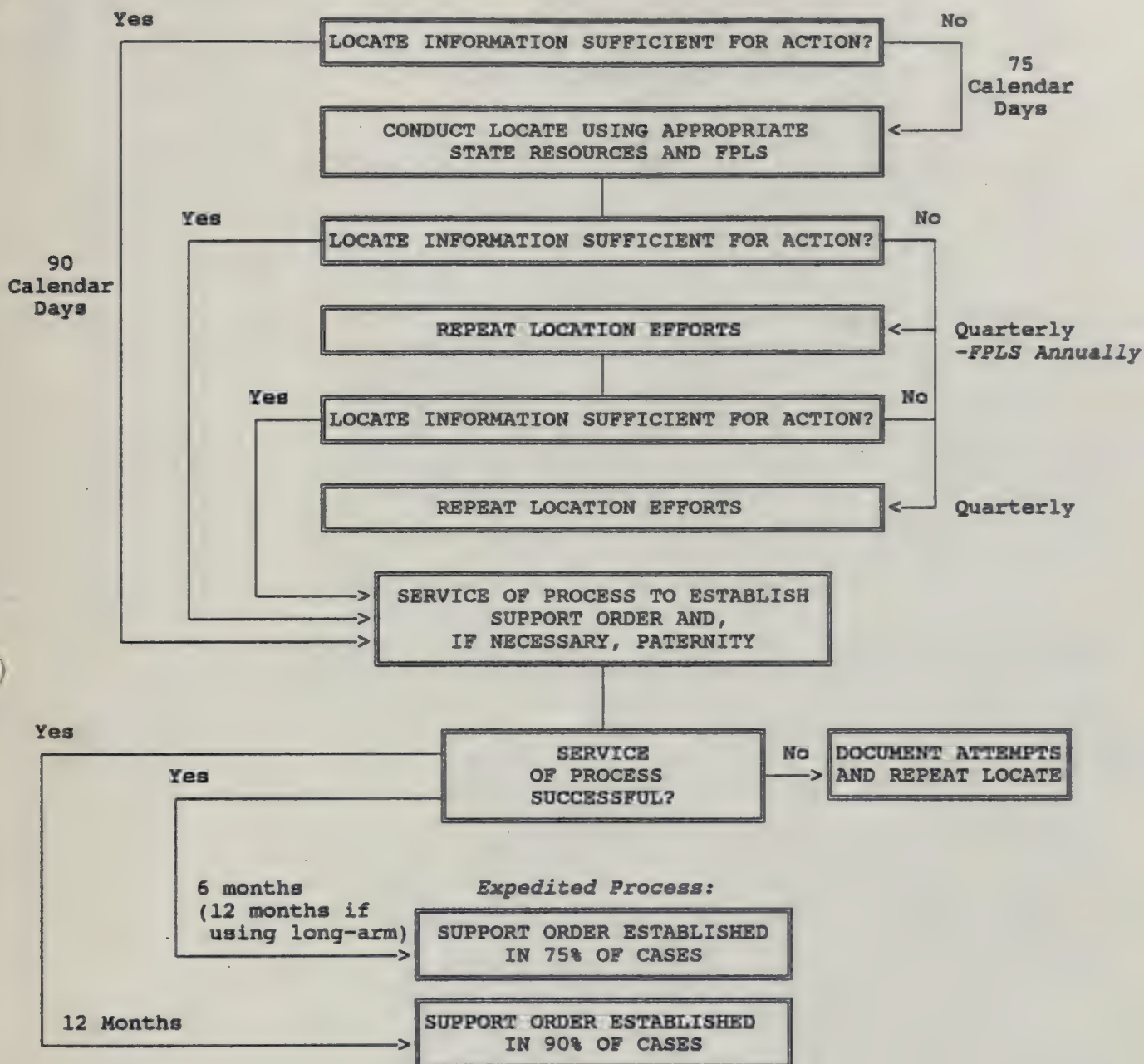
PI-Payee included
PN-Payee not included
P -Parent
G -Grandparent
S -Spouse
U -Uncle
B -Brother
F -First Cousin
S -Sister
SP-Step Parent
N -Niece
SB-Step Brother or Step Sister

F. CLIENT ID--self explanatoryG. CLIENT NAME--self explanatoryH. ACTION

A-Application pending
D-Denied
O-Opened
S-Reinstated
Z-Closed

I. THROUGH R--self explanatory and/or not
applicable

SUPPORT ORDER ESTABLISHMENT AND, IF NECESSARY, PATERNITY ESTABLISHMENT



PATERNITY AND SUPPORT ORDER ESTABLISHMENT

- Service within 90 calendar days of locate to establish a support order and, if necessary, paternity. [CFR 303.4(d)]
- After obtaining service of process, regardless of whether paternity has been established, establish support order for following percentage of cases within each timeframe. [CFR 303.101(b)(1)(iii)]

75% in 6 months (or in 12 months if using long-arm)
90% in 12 months

CS 400.2

SECTION

CS BULLETIN

SUBJECT:

4. Notifies obligor or his authorized representative by mail at least 10 days in advance of the date of hearing by issuing CS-59 or CS-59B, "Notices of Hearing".
5. Forwards copies of all State's Exhibits to obligor or his authorized representative.

SECTION:

ADMINISTRATIVE HEARING

SUBJECT:

Scheduling of Hearing/
Notice of HearingCS-59
(Page 1)BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the)
support responsibility of) NOTICE OF HEARING ON
) THE AMOUNT OF CHILD
) SUPPORT OWED OR OWING

TO:

AT: , at

a hearing will be held for the purpose of establishing the
child support obligation accrued or accruing of

This hearing is held under the authority of Section
40-5-226,MCA. Violation of Section 40-5- is alleged
in that has failed or is failing to
provide support to his dependent children. A more detailed
statement of the alleged responsibility was provided in
Notice No. .

You are entitled to attend this hearing and respond and
present evidence and arguments on all issues involved in this
action. However, the amount of support established by a
District Court Order, if any, may not be modified at this
hearing. You have a right to be represented by counsel at the
hearing.

Failure to appear will result in agency enforcement based
on the entry of a default order. If you will be unable to
attend this hearing, notify the hearings officer 5 days in
advance.

Dated:

HEARINGS OFFICER
Department of Revenue
P.O. Box 5955
Helena, Montana 59604
phone (406) 449-4614

April 15, 1983

SECTION

ADMINISTRATIVE HEARING

SUBJECT:

Scheduling of Hearing/
Notice of HearingCS-59
(Page 2)STATE OF MONTANA
DEPARTMENT OF REVENUE, BUREAU OF CHILD SUPPORT ENFORCEMENT

HEARING RIGHTS

Nature and Importance of a Hearing

The United States Constitution guarantees you the right to have a hearing in which you can present evidence to support your claim(s) before you can be deprived of any property or money interests. The hearing must allow you the due process of law before you can be held liable for any monetary debt. Your failure to participate in a hearing can constitute a waiver of your constitutional rights so that the Bureau of Child Support Enforcement can enter a Default Order of Support Debt and undertake to collect for that debt if you make no other arrangements for payment. If a Default Order is entered against you, you will still have an opportunity to request a Hearing within thirty (30) days of entry.

Your Right to Legal Counsel

You are not required to be represented by an attorney, although you may have one if you so desire. If you are to be represented, it is your responsibility to pay any fee charged for such representation.

Your Right to Answer and Question

You can rebut unfavorable evidence that the Child Support Enforcement representative presents against you and you can present written or oral evidence of your own.

Focus of Inquiry at the Hearing

The Hearings Officer must make written findings within twenty (20) days of the date of the Hearing in which he must decide whether you have really failed to make payments and that they were past due in the amount the Bureau of Child Support Enforcement claims. He must determine the amount of your debt, your financial resources and ability to make payments on it while keeping up with your current support obligations, and whether your children need that level of support in their present financial circumstances.

Judicial Review of an Unfavorable Hearing Decision

When findings and an Order have been entered by the Hearings Officer of the Department of Revenue, you may obtain judicial review of the findings and Order by filing a petition in the appropriate District Court within thirty (30) days after you receive the Order.

SECTION:

ADMINISTRATIVE HEARING

SUBJECT:

Scheduling of Hearing/
Notice of HearingCS-59B
(Page 1)BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the)
support responsibility of:) NOTICE OF TELEPHONE HEARING
) ON THE AMOUNT OF CHILD SUPPORT
) OWED OR OWING

OBLIGOR CHILD SUPPORT ENFORCEMENT BUREAU

SSN: _____ Case No. _____
Investigator _____
Telephone: _____ Telephone: _____

A hearing will be held for the purpose of establishing the
child support obligation accrued or accruing of

THIS CASE IS BEING SCHEDULED FOR HEARING ON _____
at _____ o'clock _____ M. Telephone hearings are scheduled
to expedite resolution. The Hearings Officer will call the
interested parties at the telephone numbers listed above.
PLEASE BE AVAILABLE.

ISSUE: _____

This hearing is held under the authority of Section 40-5-226,
MCA. Violation of Section 40-5-_____ is alleged in that
_____ has failed or is failing to provide
support to his/her dependent children. A more detailed statement
of the alleged responsibility was provided in Notice Number _____

In the event you fail to answer your telephone, the case
will be heard in your absence, and the decision will be rendered
on the evidence available.

The hearing will not be postponed except in cases of emergency
and you must notify the Hearings Officer immediately if you cannot
be present or desire a postponement.

Although you are not testifying in person, you are subject
to the perjury law of the State of Montana.

Enclosed are copies of documents from the hearing file
which have been marked as exhibits. Should you wish to include
any additional documents, please mail them immediately to the
Hearings Officer.

PLEASE SEE THE REVERSE OF THIS FORM FOR
INSTRUCTIONS AND RIGHTS IN THIS MATTER.

Date Mailed _____

HEARINGS OFFICER
Department of Revenue
P. O. Box 5955
Helena, Montana 59604

TELEPHONE NO. (406) 449-4614

April 15, 1983

4

SECTION:

ADMINISTRATIVE HEARING

SUBJECT:

Scheduling of Hearing/
Notice of HearingCS-59 B
(Page 2)STATE OF MONTANA
DEPARTMENT OF REVENUE, BUREAU OF CHILD SUPPORT ENFORCEMENT

HEARING RIGHTS

Nature and Importance of a Hearing

The United States Constitution guarantees you the right to have a hearing in which you can present evidence to support your claim(s) before you can be deprived of any property or money interests. The hearing must allow you the due process of law before you can be held liable for any monetary debt. Your failure to participate in a hearing can constitute a waiver of your constitutional rights so that the Bureau of Child Support Enforcement can enter a Default Order of Support Debt and undertake to collect for that debt if you make no other arrangements for payment. If a Default Order is entered against you, you will still have an opportunity to request a Hearing within thirty (30) days of entry.

Your Right to Legal Counsel

You are not required to be represented by an attorney, although you may have one if you so desire. If you are to be represented, it is your responsibility to pay any fee charged for such representation.

Your Right to Answer and Question

You can rebut unfavorable evidence that the Child Support Enforcement representative presents against you and you can present written or oral evidence of your own.

Focus of Inquiry at the Hearing

The Hearings Officer must make written findings within twenty (20) days of the date of the Hearing in which he must decide whether you have really failed to make payments and that they were past due in the amount the Bureau of Child Support Enforcement claims. He must determine the amount of your debt, your financial resources and ability to make payments on it while keeping up with your current support obligations, and whether your children need that level of support in their present financial circumstances.

Judicial Review of an Unfavorable Hearing Decision

When findings and an Order have been entered by the Hearings Officer of the Department of Revenue, you may obtain judicial review of the findings and Order by filing a petition in the appropriate District Court within thirty (30) days after you receive the Order.

TELEPHONE HEARING INSTRUCTIONS

A telephone hearing has been scheduled because distance and other reasons make it impossible for all parties to attend at the same location. The Hearings Officer will hear all testimony. The parties will have an opportunity to cross-examine, and each party will be afforded the right to present rebuttal testimony. The hearing will be conducted via speakerphone and will be recorded, thus the necessity of speaking clearly directly into the telephone. There should be no background noise or other interference in the room from which you will be talking. Should the Hearings Officer lose contact with you, hang up your telephone immediately, and the Hearings Officer will re-establish the connection.

If you have any documents or written materials which you want the Hearings Officer to consider in this hearing, send them immediately to the Hearings Officer at the address on the "Notice of Hearing". Be sure to keep a copy for your own use at the hearing. If, for some reason, you find there are documents which you want considered, but did not send to the Hearings Officer bring them to the hearing and inform the Hearings Officer over the telephone you want them considered at the hearing.

In order to protect your rights, you must answer the telephone number listed on the notice of hearing at the designated time.

Witnesses

If you wish to have witnesses testify on your behalf at the hearing:

1. Notify them of the time and date of the hearings (see "Notice of Hearing")
2. Arrange for each witness to be with you at your home or office at the time of the hearing or at a location with an available telephone.
3. At the time of the hearing, when you are called to begin the hearing, inform the clerical assistant of the name of each witness you want to testify.

IF YOUR WITNESSES ARE AT A SEPARATE LOCATION: You will give the clerical assistant the telephone number at which each one may be called. The clerical assistant will see to it your witnesses are called, so they may testify. DO NOT HAVE YOUR WITNESSES CALL THE HEARINGS OFFICER DIRECTLY.

If you desire that subpoenas be issued, notify the Hearings Officer at the earliest possible date of the name and address of the party or parties to be subpoenaed.

Department of Revenue

SECTION:

SPECIFYING A
SUPPORT AMOUNT DUE

SUBJECT:

CHILD SUPPORT ENFORCEMENT

Debt Computation/Worksheet

Summary: A description of the laws governing support amounts and a sample completed debt computation worksheet are provided.

POLICY: For each case, based on the support obligation of the responsible parent, calculate the debt due the recipient and the debt due the state resulting from unpaid child support.

DEFINITIONS: SUPPORT OBLIGATION--a monthly amount due for the support of dependent children. This amount is established and limited by law to:

1. The amount and kind of support specified in the order of a court of competent jurisdiction;
OR
2. If there is no court order, the amount determined through the Child Support Administrative Procedure; OR
3. In the absence of 1 & 2 above, the amount of public assistance paid for the benefit of the dependent child and custodial parent.

DEBT DUE--means the sum created by the failure to provide support to a dependent child under the laws of this state.

DEBT DUE THE STATE--The state is subrogated to the support obligation collection rights of the custodial parent equal to the public assistance payments made. The custodial parent may share in money collected if the collection exceeds the debt due the state.

SECTION: SPECIFYING A
SUPPORT AMOUNT DUE

SUBJECT: Debt Computation/Worksheet

PROCEDURE:

Responsibility

ACTION

*Assessment
Specialist

1. Beginning with the oldest first, establish the support obligation for this case for each month. Enter the correct amount in the "Court Ordered Support" column.
2. Establish the amount of public assistance paid during any month covered by an Assignment of Rights. Enter on the appropriate line in the "Amount of Public Assistance" column.
3. Determine the amount of support paid by the responsible parent for each month. Enter on the appropriate line in the "Amount Paid by Obligor" column.
4. Subject to the limitations of the court order, calculate the amount due the recipient and the amount due the state for each month.
- ⊕ 5. Medical costs maybe calculated for AFDC recipients without a support order. Obtain record from the SRS medical payments vendor. When a court order for child support includes medical as a child support obligation, calculate the debt.
6. Complete all the identifying spaces on the worksheet..
7. Retain supporting documents and the worksheet in the casefile.

o o o

SECTION

SPECIFYING A
SUPPORT AMOUNT DUE

SUBJECT:

Debt Computation/Worksheet



STATE OF MONTANA

DEPARTMENT OF REVENUE
INVESTIGATION DIVISION
CHILD SUPPORT ENFORCEMENT BUREAU

CS-25

CASE NO. CS 99,999
CASE NAME Jane Doe COUNTY x County
OBLIGOR John Doe

[illegible]

Total Due Recipient

50. --

Total Profit

209. ---

Molecular

% Local

Total Amount Owed: State
(A, DC & Medicaid)

859 -

P. Linder

12/28/79

NOCs BULLETIN--NON-GUIDELINES AMOUNTS

New Amounts for Non-Guidelines Determination of Support Obligation

Please use the amounts in the following table to determine a support obligation when the Montana Child Support Guidelines do not apply. The amounts are effective July 1, 1999, and will remain in effect until further notice. They represent the minimum amount necessary to support one or more children in Montana and are based on the family assistance benefit amounts.

Number of Children	Support Amount
1	\$374
2	469
3	564
4	659
5	754
6	849
7	944
8	991
9	1036
10	1076

Instructions for Manual Maintenance

Place this bulletin at the beginning of section CS 401.3 (Notice and Order Concerning Support, July 1, 1997) and remove all previous benefit amount bulletins.

Department of Public Health and
Human Services

CHILD SUPPORT ENFORCEMENT

section:
SPECIFYING A SUPPORT
AMOUNT DUE

subject:
Notice and Order Concerning
Support

SUPERSEDES: CS 401.3, Notice of Financial Responsibility, October 1991; CS 403.1, Notice of Medical Responsibility, October 28, 1996

REFERENCES: 45 CFR 303.4 and 303.101; MCA 40-5-225 through 40-5-227

POLICY: Process for Establishing a Support Obligation. The CSED establishes the support obligation of a parent in a CSED case by entering a support order requiring the parent to provide child support, medical support, or both for the children named. One support order is generally used to establish the obligations of both parents; the order contains a child support obligation and a medical support obligation for the obligor, and a medical support obligation for the obligee parent. If the obligee is not a parent but a "third-party" custodian, the order contains obligations for the obligor only.

"Obligated Parent" Defined. For purposes of this section and sections CS 401.4 and CS 401.5, the term "obligated parent" means the obligor or the parent obligee. A third-party custodian is not an obligated parent. A parent who is neither the obligor nor the obligee in the case cannot be an obligated parent.

Conditions for Establishing a Support Obligation. The CSED may enter a support order against a parent or parents when the following conditions apply:

- (1) There is no existing child support order against the obligor
- (2) The obligor is not a minor
- (3) The obligor's paternity of the children is established or is not at issue; or, a paternity action against the obligor is pending in a Montana district court and a temporary support order is appropriate (see section CS 401.4)
- (4) Either the obligor or the obligee is not receiving public assistance money.

Noticed Amounts--Guidelines Determinations. The CSED alleges support amounts due by serving a

section: SPECIFYING A SUPPORT
AMOUNT DUE

subject: Notice and Order
Concerning Support

Notice and Order Concerning Support. Amounts in the notice must be based on the Montana Child Support Guidelines, except in cases where the CSED does not have sufficient financial information to perform a guidelines calculation. CSED policy defines "sufficient financial information" as any information that can be used to reasonably approximate the obligor's income or ability to earn income. This policy presumes that all other information needed for an initial guidelines determination (income of obligee parent, deductions from income) can be obtained or approximated based on knowledge of the case.

In initially determining noticed amounts according to the above policy, the caseworker must take the following actions in all cases, regardless of whether Financial Affidavits are on file:

- (1) Actively search for information about the obligor's earned and unearned income, using available sources and leads (SEARCHS ESD data, federal 1099 information, completed Financial Affidavit, suggestions from the other parent about possible assets or unreported employment).
- (2) When appropriate, determine the obligor's qualifications and time available for earning income, and impute income according to earning capability. Generally, imputation is appropriate when any of the following apply:
 - (a) The obligor is qualified for employment at a higher wage than he or she is currently earning (for example, the obligor is licensed as a plumber but is working at an unskilled or lower-wage job, or is unemployed).
 - (b) The obligor is employed part-time; income should be imputed at the full-time amount, unless there is information indicating a special limitation on earning capability.
 - (c) The obligor has seasonal employment; monthly income should be imputed by adding the actual or projected income for the seasonal months, to a reasonable imputed income (say, minimum wage amounts

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or unemployment benefits) for the off-season months, and dividing by 12.

- (d) No information can be obtained about where or whether the obligor is currently employed,

- but there is evidence the obligor is qualified for employment at a level above minimum wage (for example, the obligor was able-bodied when last seen, and is known to have been employed in the timber industry in the past); income should be imputed at the higher level.

- and there is no evidence of qualification above minimum wage, but the obligor is known to have worked at minimum-wage jobs in the past; income should be imputed at minimum wage.

If nothing at all is known about the obligor's current ability to earn, income should not be imputed at any level (see "TANF Exception" below).

- (3) Upon obtaining a reasonable approximation of income for the obligor, obtain or impute all other information needed for a guidelines calculation by consulting case information or contacting the obligee parent. In the absence of any information to the contrary, the income of the obligee parent may be imputed at minimum wage, and the remaining information completed by setting non-standard deductions at \$0, household sizes at 1, and assets at \$0.

If a reasonable approximation of income for the obligor is not possible, the exception in the following paragraph applies.

TANF Exception. The CSED alleges non-guidelines support amounts only when it is impossible to identify or impute obligor income according to (1) or (2) above. In these cases the notice must allege amounts based on the greater of

- the maximum amount of public assistance payable to the child under the Temporary Assistance to Needy Families (TANF) program, or

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- the child's actual needs as alleged by the obligee (the CSED does not solicit allegations of the child's needs, but assumes these are represented by the TANF amount unless otherwise advised).

As a matter of CSED policy, notices containing non-guidelines amounts should be very rare, and should be issued only after the caseworker has made every reasonable effort to obtain information for a guidelines calculation.

Confidentiality of Information Between Parents. Information about a parent's employment, financial condition, medical condition, identification numbers, household, or other families is not routinely provided to the other parent except as it is reflected in a guidelines worksheet. The CSED provides a copy of a parent's Financial Affidavit to the other parent only upon request, and only for child support-related purposes. The CSED does routinely list the mailing addresses of the obligor and obligee on the notice of the establishment action. If a parent or custodian has asked to have address or other reported personal information protected from the other parent, and has obtained a protective order or restraining order, the CSED will honor the request.

Exception from Immediate Income Withholding. The CSED may except an obligor from immediate income withholding if it finds

- there is good cause not to require immediate withholding, or
- there is an acceptable alternative arrangement in place for the payment of support.

The finding can be made by the caseworker in the course of negotiating the support order, or by the Administrative Law Judge at hearing.

The process for obtaining an exception begins with the obligated parent. The original NOCS contains a provision requiring immediate income withholding. If the obligated parent disagrees with the provision, the parent may contact the CSED to request an exception.

The caseworker can recommend an exception for **good cause** if all of the following conditions are met:

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- (1) The obligor or obligee provides convincing evidence that implementation of immediate income withholding would not be in the best interests of the child.

EXAMPLE: There is evidence the obligor's employer, despite the statute forbidding the practice, will fire, refuse to hire, or refuse to promote the obligor if the employer is required to comply with CSED withholding requirements. The resulting loss of income available for child support would not be in the best interests of the child.

- (2) If support was previously ordered, there is proof of timely payment.
- (3) No arrears are owing, and the obligor has paid in full any judgment listed in the NOCS.

The caseworker can recommend an exception based on an **alternative arrangement** if all of the following conditions are met:

- (1) There is a written agreement for payment of support that is signed by the obligor and the obligee; or, there is an oral agreement between the obligor and obligee that the caseworker has heard directly stated by both.
- (2) The agreement provides sufficient security to ensure compliance with the arrangement. Examples of possible security include bonds, prepayment of support (at least one month ahead), military allotments, or other automatic draws on the obligor's bank account or pay check.
- (3) Support payments for amounts in the NOCS are made through the CSED.
- (4) No arrears are owing, and the obligor has paid in full any judgment listed in the NOCS.

If the caseworker recommends exception and the supervisor approves, an amended NOCS is issued that includes the exception. A written determination is attached to the NOCS that describes the exception and the basis for it.

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If the CSED denies a parent's request for an exception (the caseworker declines to recommend an exception, or the supervisor does not approve a recommended exception), the obligated parent can request a hearing on the NOCS to contest the issue.

Time Frames for Establishing a Support Obligation.
Two federal time frames apply to the procedures in this section:

- (1) Within 90 calendar days of locating the obligor the CSED must serve notice of the establishment action.
- (2) Within 6 months of serving the notice in time frame (1) on all obligated parents, the CSED must enter the support order or dismiss the action.

To ensure compliance with time frame (1) the CSED serves the notice for the support action at the same time as any notice of a paternity action.

The total time allowed in (1) and (2) includes any time used to establish paternity, negotiate support amounts, issue amended notices, schedule and hold a hearing, or obtain the signature of the Administrative Law Judge.

PROCEDURES:

RESPONSIBILITY

ACTION

- | | |
|------------|--|
| Caseworker | <ol style="list-style-type: none"> 1. Initial Review. Upon determining that conditions for establishing a support order apply, proceeds as follows: <ol style="list-style-type: none"> a. Determines whether CSED has personal jurisdiction over obligor as defined in MCA section 40-5-231. If not, initiates interstate referral or proceeds with Native American jurisdiction in section CS 250.1 as appropriate. b. Determines whether either of following exceptions for parent obligee applies; if so, proceeds in this section against obligor only, as if for third-party case. <ol style="list-style-type: none"> (1) Parent obligee lives out of state, |
|------------|--|

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and CSED does not have personal
jurisdiction under 40-5-231

(2) Parent obligee is under age 18.

- c. Reviews available financial information for each obligated parent. Sources of information should include SEARCHS, case application or referral, information on file from other actions, current wage publications, and any incidental information. If necessary and where practical, obtains additional information through informal contact with parents or custodian.
- d. At caseworker's option, obtains Financial Affidavit for obligee parent in advance of formal notice process (steps 2 through 8) by sending form CS-202.1A, Request for Information, enclosing and requesting return of Financial Affidavit.
- e. Determines whether medical support order already exists for any obligated parent. If so, consults with CSED staff attorney to adapt procedures and forms in this section as necessary.

2. **Guidelines Calculation.** Unless TANF exception applies (see POLICY), performs guidelines calculation as in section CS 404.1 to determine monthly child support obligation per child for each obligated parent. In third-party case performs calculation using financial information for obligor only, entering \$0 for income of other parent.

If medical insurance for children is available to obligor through employer or other group, determines "reverter" amounts for each obligated parent by performing two guidelines calculations:

- (1) Calculation with credit to obligor for payment of health insurance premium
- (2) Calculation without credit to obligor for payment of health insurance premium.

Proceeds to step 4.

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3. **TANF Amount.** If TANF exception applies, enters SEARCHS case note explaining why guidelines calculation was not possible. Determines obligor's monthly child support obligation per child as follows:
 - a. Under Temporary Assistance for Needy Families (TANF) program identifies public assistance grant amount corresponding to number of children in this action (see bulletin immediately preceding this section for latest amounts).
 - b. Divides grant amount by number of children to get per-child obligation.
4. **Medicaid Reimbursement--Guidelines Amount.** If child support obligation is based on guidelines calculation (step 2), determines Medicaid reimbursement amount for each obligated parent as follows:
 - a. Identifies parent's monthly child support obligation per child from guidelines calculation in step 2. If reverter amounts apply, uses calculation that does not include credit to obligor for premium payment.
 - b. Multiplies amount by 25%.
 - c. If product is
 - less than \$50 per child, sets Medicaid reimbursement amount at \$0.
 - at least \$50 per child, sets reimbursement amount at \$50 per child.
5. **Medicaid Reimbursement--TANF Amount.** If child support obligation is based on TANF amount (step 3), sets Medicaid reimbursement amount for each obligated parent at \$50. This amount applies even if one parent has submitted a Financial Affidavit.
6. **First-Payment Date.** Determines first-payment date for child support and Medicaid reimbursement payments as follows (date should be the same for both obligations and all obligated parents): If NOCS issue date will be
 - before the 15th of the current

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month, first-payment date is the first day of the current month.

- on or after the 15th of the current month, first-payment date is the first day of the next month.

7. **Commencement Date.** Determines commencement date of obligation, and any judgment amount, as in steps 7a through 7c below.

a. Initially sets commencement date at first day of month in which

- a child in this action was born, if paternity was established by action of the CSED or a Montana court, OR
- the parents were legally separated, OR
- another event occurred that is significant to the accrual of a support obligation (for example, public assistance benefits began, non-public assistance case opened, NOCS was first issued prior to failure of service); the significant event must be after the date of birth or separation, OR
- the first payment is due as stated in the NOCS (for a prospective commencement date.)

Commencement dates other than those identified above should be discussed with the supervisor or CSED staff attorney before implementation.

b. Adjusts month of commencement date as necessary to comply with following restrictions:

- (1) Period from commencement date to first-payment date must include no unreasonable lapses in CSED's attention to case. (Period may include moratoriums specifically set by CSED policy.)
- (2) Period from commencement date to first-payment date must not include

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worksheets for later use.

10. **Paternity Coordination.** If obligor's paternity is established or not at issue, proceeds with service on obligated parents as in step 11.

If obligor's paternity is not established, for each alleged father combines service of NOCS package in step 11 with service of NPR in section CS 605.2 or 605.3, and coordinates resolution as appropriate. In multiple-allegation cases serves multiple NOCS packages on mother obligee.

If obligor is mother, proceeds with establishment of support obligation against mother as for third-party case.

11. **Service and Response Time.** For each obligated parent, serves NOCS package and monitors for response as in (1), (2), or (3) below. Upon obtaining successful service proceeds to step 13.

- (1) Sends package by certified mail, return receipt requested, restricted delivery. Monitors for response within 3 mailing days plus 20 calendar days after mailing, or 20 days after date parent signs return receipt, whichever allows for later response.
- (2) Arranges for personal service of package, through sheriff or civil process server. Monitors for response within 20 calendar days of date on return of service.
- (3) Prepares form CS-405.1, Acknowledgment of Receipt of Notice and Waiver of Service, encloses NOCS package, and sends by regular mail. If signed acknowledgment not returned within reasonable time, arranges for service in (1) or (2) above.

12. **Failed Service on Parent.** If service is obtained on obligor, but cannot be obtained by any method on parent obligee, then

- if there will be a public assistance debt, regardless of whether new obligee opens case, amends NOCS to third-party

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version as in step 16, and informs public assistance agency.

- if there will not be a public assistance debt, begins closure of obligee's non-public assistance case; at caseworker's option depending on facts of case, either
 - amends NOCS to third-party version as in step 16, and finalizes support action before closure, or
 - dismisses notice as in step 13 at time of closure.

If service cannot be obtained on obligor, takes necessary steps to locate obligor, including but not limited to monitoring automatic interfaces. If within one year from date NOCS is issued, obligor is

- located, arranges for service of original NOCS.
- not located, dismisses notice as in step 13. When obligor is located, issues new NOCS for same payment amounts and same commencement date as in original NOCS.

(One-year period for serving original NOCS may be adjusted at region's option.)

13. **Dismissing (and Not Dismissing) Notice.** If in response to service of NOCS obligated parent timely contacts CSED and proves either

- no support obligation exists, or
- a support order for the child support and medical support obligations already exists,

prepares form CS-401.3F, Motion and Order to Dismiss Administrative Notice, and forwards to OALJ for execution and notification of parties.

If obligated parent proves a support order for child support or medical support (but not both) already exists, consults with CSED staff attorney to amend notice as appropriate.

If obligated parent proves support action is pending in district court, amends notice to include "temporary" language (NOCS selection on SEARCHS) and follows procedures in section CS 401.4.

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If obligated parent claims nonpaternity (and CSED records show paternity established or never at issue), explains CSED will proceed with establishment of support obligation; parent may petition district court for relief.

If obligee changes after NOCS served on at least one obligated parent, maintains NOCS action for original obligor and obligee, except that

- if original obligee is parent and cannot be served, amends or dismisses notice according to instructions in step 12.
- if new obligee is parent (original obligee was third party), at caseworker's discretion dismisses notice and issues new NOCS for two obligated parents.

14. **Resolving NOCS.** If hearing is not timely requested by any obligated parent, proceeds according to obligated parents' responses in 14a through 14c below. If any obligated parent timely requests hearing, proceeds to step 20.

- a. If obligated parent or other person timely provides information that changes amounts noticed, proceeds to step 16.
- b. If parties timely contact CSED and prove that conditions for exception to income withholding apply (see POLICY), proceeds to step 16.
- c. If no information is received in 14a or 14b to change amounts or terms noticed, and any obligated parent
 - timely returns signed consent to support, proceeds to step 18 for that parent.
 - does not timely return signed consent, or has received version of NOCS without consent option, proceeds to step 15 to determine notification requirements for that parent.

15. **Notification Requirements.** If so directed in

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step 14c, determines whether conditions (1) and (2) below apply for obligated parent. If so, proceeds in 15a or 15b as applicable; if not, proceeds to step 18.

- (1) Obligated parent has submitted Financial Affidavit (before or after service of NOCS)
- (2) Obligated parent could have reason to expect amounts in NOCS to change, because
 - NOCS ordered obligated parent to produce Financial Affidavit, and he or she has complied, or
 - NOCS ordered other parent to produce Financial Affidavit.

- a. Contacts obligated parent by telephone and explains amounts in NOCS will not change; informs parent CSED will enter order for amounts in NOCS if hearing is not requested within specified number of days. (Number of days may be fewer than 10, but must be enough to allow delivery of hearing request to OALJ.) If parent
 - requests hearing, proceeds to step 20.
 - does not wish to request hearing, proceeds to step 18.
 - states or implies he or she will request hearing, but does not do so, proceeds to step 15b.

- b. If obligated parent cannot be reached by telephone, or if there is some special reason to confirm opportunity offered in step 15a, prepares form CS-405.4, Notice of Default, adapting for NOCS, and sends to all obligated parents. Sets tickler for three mailing days plus 10 working days. If any obligated parent timely requests hearing, proceeds to step 20; if not, proceeds to step 18.

16. **Preparing and Issuing Amended NOCS.** If necessary to update noticed terms or amounts, to amend to third-party or temporary version, or to correct error in case information, prepares amended NOCS as in step 8, and

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according to special instructions in steps 16a through 16e below. Does not amend NOCS solely to add judgment for genetic testing fee.

(If above changes apply but original NOCS has not been served on any obligated parent, recalls original notice and begins again at step 1.)

- a. Enters updated first-payment date if necessary. Instructions in step 6 now apply to amended NOCS except as noted in step 16c.
- b. Selects or updates judgment as appropriate--does not change commencement date determined for original NOCS.
- c. Selects income withholding exception (good-cause or alternative-arrangement type) at obligated parent's request if
 - conditions for good cause or alternative arrangements described in POLICY apply,
 - exception is approved by supervisor, and
 - (for alternative arrangement exceptions) consent language is also selected (all obligated parents have submitted Financial Affidavits).

Collects any amount determined in step 16b above before issuing amended NOCS. Upon payment, removes (does not select) judgment option, and moves first-payment date back to original commencement date.

Prepares and attaches form CS-401.3^E,
Exception to Income Withholding.

- d. In case of conversion to third-party case because of failed service on parent obligee, selects third-party language, retaining same obligee in heading as in original NOCS. (SEARCHS will correctly convert format of heading to third-party version, but caseworker may be required

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to adjust document off-SEARCHS to ensure original parent obligee is retained as "obligee.")

If parent obligee was successfully served with original NOCS but now cannot be located, does not amend notice to third-party version, but proceeds otherwise as in step 12.

- e. Selects amended notice language in all cases.

Sends package to obligated parents by regular mail; enters case note for type of service. Monitors for response within three mailing days plus 20 calendar days after mailing.

- 17. **Resolving Amended NOCS.** If no hearing is requested by any obligated parent, resolves notice as in steps 14 and 15. Additional notices beyond the first NOCS and one subsequent NOCS are generally not appropriate, unless one or both Financial Affidavits are produced in response to the subsequent NOCS.
- 18. **Preparing Support Order.** Where no obligated parent has timely requested a hearing, prepares appropriate support order and assembles package as in steps 18a through 18d below.
 - a. **Consent Only.** If all obligated parents have returned signed consents,
 - in two-obligation case prepares form CS-401.3B, Entry of Support Order, and attaches both NOCS documents containing parents' signatures; adds to package in step 18d.
 - in third-party case, adds NOCS document containing obligor's signature to package in step 18d.
 - b. **Default Only.** If no obligated parent has returned a signed consent, retrieves original NOCS from case file and completes certificate of service and response; adds to package in step 18d.

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- c. **Consent and Default.** If one obligated parent has returned signed consent, and one obligated parent has not, uses document containing original signature of consenting parent to complete certificate of service and response; adds to package in step 18d.
- d. **Assembling Package.** Assembles support order package containing
- NOCS document(s) identified for package in step 18a, 18b, or 18c above,
 - any guidelines worksheets sent with notice (attached to NOCS),
 - any form CS-401.3C, Exception to Income Withholding sent with notice (attached to NOCS), and
 - stuffers (retrieved from case file).

Makes copy of package for case file, and submits original to Office of the Administrative Law Judge (OALJ). Enters SEARCHS case note.

19. **Entry of Support Order.** Following submission of support order package in step 18 or presentation at hearing in step 22, awaits notification from OALJ that order is entered. Notification may be oral (at hearing), electronic, or by physical copy of written order.

Upon notification, updates SEARCHS SOS and SOD screens, sets up applicable accounts on SEARCHS (including account for any judgment), and begins enforcement. For SOD update, includes indication that support order contains deemed service-of-process warning.

In case of oral or electronic notification, enters appropriate SEARCHS case note, monitors for receipt of written copy of executed order, and updates SEARCHS accordingly.

- a. If support order is for TANF (non-guidelines) amounts, monitors for receipt of information sufficient to determine

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guidelines amounts; upon receipt proceeds with replacement action in section CS 401.5.

- b. If contacted by person dissatisfied with support order,
- for support order entered as result of hearing, sends pro-se judicial review packet and enters SEARCHS case note; continues enforcement regardless of any petition for judicial review, unless OALJ or district court stays CSED order.
 - for support order entered without hearing, explains administrative remedies (judicial review is not available); specifically,
 - for guidelines order explains review and modification procedures and supplies telephone number for CSED Customer Service Unit.
 - for non-guidelines order explains replacement process in section CS 401.5.
- c. If subsequent children are born to the same case, consults CSED staff attorney to adapt forms and procedures in this section as needed. (Various options may include (1) entering separate order for "subsequent children," followed by motion to consolidate two orders, or (2) processing establishment for subsequent children via order that, when entered, includes original children and terminates existing order.)

END OF PROCESS

20. Immediate Steps Upon Receiving Hearing Request. If obligated parent requests hearing, proceeds as applicable in steps 20a and 20b.

- a. If hearing request is received in regional office, immediately faxes request (and mails original) to OALJ. Enters SEARCHS case note for request

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received in region.

b. Contacts requesting parent to attempt to resolve issues before hearing. Elicits requestor's reasons and defenses; explains specific CSED procedures or calculations; confirms authority to establish support obligations; and gives or obtains any other information relating to hearing request.

i. If parent is satisfied with explanation and wishes to withdraw hearing request, instructs parent to notify OALJ in writing that request is withdrawn; proceeds as in step 14.

ii. If parent provides information that would change noticed terms of obligation, proceeds as in step 16.

iii. If parent maintains request for hearing, documents contact via SEARCHS case note and proceeds to step 21.

21. **Hearing Preparation.** Prepares case for hearing in steps 21a through 21f below.

a. **Exhibits and Witnesses.** Identifies and confirms witnesses. Prepares list of exhibits, exhibits themselves, list of witnesses, and certificate of mailing; makes necessary copies. Mails copies of exhibits and witnesses package directly to all hearing participants, to be received at least five working days before hearing date. Sends original package to OALJ, retaining one copy for file. When notice and order for hearing is issued by OALJ, arranges for service on witnesses as necessary.

b. **Proving the Case.** Prepares prima facie case for hearing, following any general instructions of CSED staff attorney. Case must include, at a minimum, authority to proceed, lack of existing support order, existence of paternity

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presumption or order, administrative notice, service of process, subject matter jurisdiction, obligation of support, and ability to support.

IMPORTANT: For purposes of evidence of paternity, the caseworker should prepare testimony stating by what method paternity was established or presumed, rather than introducing actual paternity documents, which may be subject to strict confidentiality regulations.

- c. **Judgment for Arrears.** Determines child support arrears accrued from month of commencement date through month preceding hearing month; prepares request for judgment, to be presented at hearing.
 - d. **Medicaid Status.** Investigates TANF-related Medicaid status of children; prepares information to be presented at hearing.
 - e. **Reverter Amounts.** Determines whether health insurance coverage for children is available to obligor through employer or other group (reasonable cost requirement does not apply for this purpose). If so, prepares request for reverter amounts, to be presented at hearing.
 - f. **Continuances or Delays.** Except in unusual situations with prior approval of supervisor, does not request continuance (rescheduling) of hearing, or delays in submitting exhibits, once date is set.
22. **Hearing Participation.** Presents CSED's case at hearing, including any special requests in step 21. If appropriate, performs "live" guidelines calculation during telephone hearing concurrently with calculation performed by Administrative Law Judge. Except in unusual situations with prior approval of supervisor, does not request hearing record be held open. In special situations involving unfamiliar points of law, requests ALJ set briefing schedule as needed (due dates for briefs will not be subject to CSED time frames for hearing process). Proceeds to step 19.

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received in region.

b. Contacts requesting parent to attempt to resolve issues before hearing. Elicits requestor's reasons and defenses; explains specific CSED procedures or calculations; confirms authority to establish support obligations; and gives or obtains any other information relating to hearing request.

i. If parent is satisfied with explanation and wishes to withdraw hearing request, instructs parent to notify OALJ in writing that request is withdrawn; proceeds as in step 14.

ii. If parent provides information that would change noticed terms of obligation, proceeds as in step 16.

iii. If parent maintains request for hearing, documents contact via SEARCHS case note and proceeds to step 21.

21. **Hearing Preparation.** Prepares case for hearing in steps 21a through 21f below.

a. **Exhibits and Witnesses.** Identifies and confirms witnesses. Prepares list of exhibits, exhibits themselves, list of witnesses, and certificate of mailing; makes necessary copies. Mails copies of exhibits and witnesses package directly to all hearing participants, to be received at least five working days before hearing date. Sends original package to OALJ, retaining one copy for file. When notice and order for hearing is issued by OALJ, arranges for service on witnesses as necessary.

b. **Proving the Case.** Prepares prima facie case for hearing, following any general instructions of CSED staff attorney. Case must include, at a minimum, authority to proceed, lack of existing support order, existence of paternity

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presumption or order, administrative notice, service of process, subject matter jurisdiction, obligation of support, and ability to support.

IMPORTANT: For purposes of evidence of paternity, the caseworker should prepare testimony stating by what method paternity was established or presumed, rather than introducing actual paternity documents, which may be subject to strict confidentiality regulations.

- c. **Judgment for Arrears.** Determines child support arrears accrued from month of commencement date through month preceding hearing month; prepares request for judgment, to be presented at hearing.
 - d. **Medicaid Status.** Investigates TANF-related Medicaid status of children; prepares information to be presented at hearing.
 - e. **Reverter Amounts.** Determines whether health insurance coverage for children is available to obligor through employer or other group (reasonable cost requirement does not apply for this purpose). If so, prepares request for reverter amounts, to be presented at hearing.
 - f. **Continuances or Delays.** Except in unusual situations with prior approval of supervisor, does not request continuance (rescheduling) of hearing, or delays in submitting exhibits, once date is set.
22. **Hearing Participation.** Presents CSED's case at hearing, including any special requests in step 21. If appropriate, performs "live" guidelines calculation during telephone hearing concurrently with calculation performed by Administrative Law Judge. Except in unusual situations with prior approval of supervisor, does not request hearing record be held open. In special situations involving unfamiliar points of law, requests ALJ set briefing schedule as needed (due dates for briefs will not be subject to CSED time frames for hearing process). Proceeds to step 19.

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Office of the
Administrative
Law Judge
(OALJ)

23. **Processing Non-Hearing Orders.** Upon receipt of support order package prepared by caseworker in step 18, obtains signature of Administrative Law Judge (ALJ), enters SEARCHS case note for decision and order signed, and proceeds to step 26.
24. **Hearing Arrangements.** Upon receipt of timely request for hearing from obligated parent, schedules hearing and sets any appropriate due dates. Issues hearing notice and order, mails copy to caseworker, and arranges for service of copies on parties; retains original in hearings file.

Administrative
Law Judge
(ALJ)

25. **Conduct of Hearing.** Conducts hearing on notice; if necessary, limits hearing to issues submitted in writing by obligated parents prior to hearing. If appropriate, enters oral order at hearing and enters SEARCHS case note for oral order. Issues written decision and order, and enters SEARCHS case note for decision and order signed.

OALJ

26. **Notification and Abstracting.** Sends copies of decision and order to parties; retains original for file. For decision and order from hearing, monitors for receipt of petition for judicial review. Abstracts order to appropriate district court, enters SEARCHS case note, and mails copies of filed abstract to parties.

Department of Public Health and
Human Services

CHILD SUPPORT ENFORCEMENT

section:
SPECIFYING A SUPPORT
AMOUNT DUE

subject:
Establishment of Temporary
Support Obligation

SUPERSEDES: CS 401.4, Establishment of Temporary Support
Obligation, October, 1991

REFERENCES: MCA §§ 40-5-225 through 40-5-227

POLICY: The CSED may establish a temporary support
obligation against a parent in a CSED case if

- a support action is pending in district court
and a temporary or permanent support
obligation has not been ordered, or
- a paternity action is pending and there is
clear and convincing evidence of paternity
based on paternity blood tests or other
evidence.

The process for establishing a temporary support
obligation is largely the same as the process for
establishing a support obligation under section CS
401.3. Procedures in this section identify points
at which the two processes diverge, and give the
required actions at those points. The main
procedural differences are as follows:

- (1) The prescribed notice period is 10 working
days (instead of 20 calendar days).
- (2) The caseworker is required to determine
whether an applicable action is pending in
district court, and to monitor the action and
dismiss any unresolved CSED notice when the
court order is entered.
- (3) An obligated parent may request a hearing to
show that a temporary support obligation is
inappropriate under the circumstances.

The temporary support order is no less effective
than the support order entered in section CS 401.3,
and is enforced in the same manner. It terminates
automatically upon entry of a final order by the
district court. If the court order is retroactive,
amounts paid under the CSED temporary order are
credited against the final obligation. If the
district court never enters an order, the temporary
order continues indefinitely until terminated by
operation of law.

section: SPECIFYING A SUPPORT
AMOUNT DUE

subject: Establishment of
Temporary Support
Obligation

PROCEDURES:

RESPONSIBILITY

ACTION

Caseworker

1. Upon determining that conditions in section CS 401.3 for establishing a support order apply, checks application, referral, or other case information for indicators that support or paternity action may be pending in Montana district court. Possible indicators, in addition to direct statements, may include references to legal actions or parents' attorneys, or absence of divorce decree or presumption of paternity. If no indicators are found, follows procedures in section CS 401.3 for establishment of permanent support obligation.
 - a. If indicators of support action found, contacts clerk of court to determine whether support action has been filed and, if so, whether action is still pending; if necessary also contacts attorneys in case. If contacts confirm support action is pending, enters SEARCHS case note for pending action and follows procedures in this section to establish order for temporary support. If pending action is not confirmed, follows procedures in section CS 401.3 for establishment of permanent support obligation.
 - b. If indicators of paternity action found, consults with CSED staff attorney to identify action and to determine
 - whether further CSED involvement in case is appropriate, and
 - whether clear and convincing evidence of paternity exists.
 If so, works with staff attorney to adapt forms and procedures in this section as necessary. If pending paternity action is not confirmed, proceeds to sections CS 602.1 and CS 401.3 for establishment of paternity and permanent support obligation.

section: SPECIFYING A SUPPORT
AMOUNT DUE

subject: Establishment of
Temporary Support
Obligation

2. Performs pre-notice reviews, determines support payments and judgment amounts, and prepares notice packages as in section CS 401.3. In preparing Notice and Order Concerning Support (NOCS)(form CS-401.3A) selects temporary obligation language.
3. Arranges for service on obligated parents as in section CS 401.3; monitors for response
 - to service by certified mail, within 3 mailing days plus 10 working days after mailing, or 10 working days after date parent signs return receipt, whichever allows for later response.
 - to service by personal process server, within 10 working days after date on return of service.
 - to waiver of service, within reasonable time (as in CS 401.3).In case of failed service proceeds as in section CS 401.3.
4. If support order is entered by district court any time before temporary support order is entered in these procedures, dismisses notice as in section CS 401.3. Other conditions in CS 401.3 for dismissing notice also apply.
5. Resolves NOCS as in section CS 401.3; "notification requirements" are not mandatory. If appropriate, issues subsequent NOCS or prepares, submits, and processes temporary support order as in CS 401.3.
6. If hearing on NOCS is requested, contacts requesting parent, and prepares for and participates in hearing as in CS 401.3. In addition to elements listed in CS 401.3 for prima facie case, also prepares testimony that support action is pending in Montana district court, and no prior temporary support order exists.
7. If hearing is requested, processes request as in section CS 401.3, including scheduling, notice and other documents, hearing conduct, order entry, abstracting, and notification of parties. Files abstract in district court in

OALJ and ALJ

section: SPECIFYING A SUPPORT
AMOUNT DUE

subject: Establishment of
Temporary Support
Obligation

which support action is pending.

Caseworker

8. Upon entry of CSED temporary support order, sets tickler to check with clerk of court for entry of court order. When court order is entered, obtains copy and proceeds as in 8a through 8d below.
 - a. Updates SEARCHS SOD screen.
 - b. Adjusts SEARCHS accounts as necessary, beginning at effective date of court order. If overpayment is created by entry of court order, does not refund excess amounts; rather, adjusts accounts to show new (court-ordered) obligation beginning in earliest month for which debt computation will show total amount owed equals total amount received.
 - c. Modifies enforcement actions as necessary to reflect updated current support or debt.
 - d. If court order declares nonpaternity or that periodic support obligation is not proper, adjusts accounts according to current CSED accounting policy for "no order" situations. (In this situation the obligee must refund to the obligor any improper amounts paid under the temporary support order.)

No action to terminate CSED temporary support order is necessary.

9. If court order does not contain medical support obligation required under MCA Title 40, Chapter 5, Part 8 (that is, obligation equivalent to that in temporary support order --see section CS 520.3), updates SEARCHS SOD screen to describe medical aspects of court order, and enforces medical obligation according to terms of court order. Refers case to CSED Review and Modification Unit for modification of medical provisions, using procedures in section CS 408.5.

Department of Public Health and
Human Services

CHILD SUPPORT ENFORCEMENT

section:
SPECIFYING A SUPPORT
AMOUNT DUE

subject:
Motion and Order Replacing
Support Order

SUPERSEDES: CS 408.11, Modification of Default Order, August 1, 1994

REFERENCES: MCA §§ 40-5-225 through 40-5-227

POLICY: The CSED adjusts amounts due under a support obligation by replacing or modifying the support order. Replacement occurs at the regional level, and is available only for orders that contain amounts not based on the Montana Child Support Guidelines. Orders containing "guidelines" amounts can be adjusted only by modification; modifications are performed by the CSED Review and Modification Unit (RMU) according to the procedures in sections CS 408.3 and 408.5. Because of the CSED's transition from one-parent to two-parent establishment, certain non-guidelines orders are also sent to RMU for adjustment, to add the second parent's obligations.

PROCEDURES:

RESPONSIBILITY

ACTION

- | | |
|------------|---|
| Caseworker | <ol style="list-style-type: none"> 1. After entry of a support order containing TANF amounts, proceeds as in steps 1a and 1b below. <ol style="list-style-type: none"> a. Upon receiving both (1) a request from an obligated parent for replacement of the order and (2) financial information sufficient to perform a guidelines calculation, proceeds to step 1b. (At caseworker's option, deems parent's request in (1) upon discovering necessary financial information.) b. Determines whether replacement of existing order is appropriate. Replacement applies only when both of the following conditions apply: <ol style="list-style-type: none"> (1) Existing order was entered according to procedures for Notice and Order Concerning Support in section CS 401.3. (2) Existing order obligates any current |
|------------|---|

section: SPECIFYING A SUPPORT
AMOUNT DUE

subject: Motion and Order
Replacing Support Order

parent obligee.

If replacement is appropriate, proceeds to step 2. If replacement is not appropriate, informs requestor that order can be changed only by modification, and supplies number for CSED Customer Service Unit.

In arrears-only cases, negotiates lump-sum settlement wherever possible. (In cases where there is an enforceable current support obligation, the obligor or obligee must apply for CSED services before the CSED can begin replacement procedures.)

2. Determines amounts to be included in replacement support order as in steps 2a through 2f below.
 - a. Performs guidelines calculation and determines child support amounts as in section CS 401.3; if reverter amounts apply for any reason, two or more calculations are required.
 - b. Determines Medicaid reimbursement amounts based on guidelines as in section CS 401.3.
 - c. If child support amount determined in step 2a represents decrease in support obligation, determines whether retroactive relief is appropriate. Generally retroactive relief is appropriate when
 - the obligor is currently willing to work with the CSED in setting a more reasonable monthly amount, and
 - the obligor's current inability to pay the ordered amount extends back, continuously, through prior months.
 - d. Determines effective month for replacement order as follows:
 - i. If retroactive relief is appropriate, effective month may be

section: SPECIFYING A SUPPORT
AMOUNT DUE

subject: Motion and Order
Replacing Support Order

any prior month relating to applicable development or condition in case (for example, month in which obligor contacted CSED to cooperate in determining reasonable amount; or first month in which amount due was unreasonable in relation to obligor's ability to pay).

- ii. If retroactive relief is not appropriate, effective month is current month. (If obligor will have overpaid current month based on new support amount, effective month should be next month; any judgments in steps 2e and 2f should then include current month.)

- e. Determines child support judgment amount to be included in replacement order as follows, where

A = total child support obligation from commencement of obligation through previous month, using new amounts determined in 2a for effective and following months, and

B = total child support payments through previous month:

Sets judgment amount at A minus B. If A minus B equals negative amount, adjusts effective month in step 2d as necessary to retain total obligation greater than or equal to payments received. Judgment period extends through previous month.

- f. Determines Medicaid reimbursement judgment amount to be included in replacement order as follows:

- i. Identifies months from commencement of obligation through previous month where Medicaid reimbursement conditions apply (see section CS 520.3).

- ii. Calculates judgment amount as

section: SPECIFYING A SUPPORT
AMOUNT DUE

subject: Motion and Order
Replacing Support Order

follows, where

A = total Medicaid reimbursement
due for months identified in
2f(i) above, using new amounts
determined in 2b for effective
and following months, and

B = total Medicaid reimbursement
payments through previous
month:

Sets judgment amount at A minus B.
If A minus B equals negative amount,
adjusts effective month in step 2d
as necessary to retain total
obligation greater than or equal to
payments received. Judgment period
extends through previous month.

3. Prepares form CS-401.5, Motion and Order
Replacing Support Order (MORSO) as follows:

a. If existing order is for third-party
case, selects third-party option. If
third-party custodian has changed,
adjusts document off-SEARCHS to ensure
custodian in existing order is retained
as "obligee." (CAUTION: Replacement
process is not appropriate for cases
where existing order is for third-party
case but obligee is now a parent (see
step 1b).)

Does not select third-party option in
cases where existing order obligates both
parents, even if case is now third-party
case. Replacement order must continue to
obligate both parents.

b. Enters date of entry of existing support
order. Enters effective date of
replacement support order (first day of
effective month from step 2d).

c. Enters child support amount from step 2a.
If reverter amounts for medical insurance
apply, selects reverter option and enters
two amounts.

section: SPECIFYING A SUPPORT
AMOUNT DUE

subject: Motion and Order
Replacing Support Order

- d. Enters Medicaid reimbursement amounts from step 2b.
 - e. Enters judgment amounts and ending months from steps 2e and 2f.
 - f. Checks SEARCHS and case file for any reason to protect address of any person included in certificates of mailing. (If not revised, both certificates of mailing will list names and addresses of obligated parents, any non-parent obligee, their attorneys, and other state if applicable. In addition, first certificate will include OALJ, second certificate will include caseworker.) If reason found, removes address before generating document.
 - g. Does not select amended-motion option for first MORSO; amended-motion language is available for subsequent motions only (see step 6).
4. Generates and signs MORSO; completes and signs first certificate of mailing, leaving second certificate dates and signature blank (for later use by OALJ); generates two extra sets of stuffers. Prepares MORSO package for each addressee in first certificate of mailing; package contains
- MORSO (original for OALJ, copies for others),
 - guidelines worksheets prepared in step 2 (attached to MORSO), and
 - stuffers (one set, in OALJ package only).
- Retains copy of package and one set of stuffers for case file.
5. Sends packages by regular mail; monitors for timely response from parents. Timely response may occur any time before replacement support order is signed in step 8 or 10.
- a. If parents' packages are not returned, presumes delivery and proceeds to step 6.
 - b. If package for obligated parent is returned, alerts OALJ and attempts to

section: SPECIFYING A SUPPORT
AMOUNT DUE

subject: Motion and Order
Replacing Support Order

obtain updated address for parent.

- i. If new address or information leading to new address is found within 10 working days of alerting OALJ, sends returned MORSO to new address; advises OALJ, enters SEARCHS case note, and proceeds to step 6.
 - ii. If new address or information leading to new address cannot be found within 10 working days of alerting OALJ, completes form CS-405.1B, Efforts to Locate for Service, documenting first attempt at service (regular mail) and subsequent attempts to obtain new address; sends copy to OALJ. Continues with procedures in this section as if service had been obtained.
6. If in response to MORSO obligated parent timely contacts CSED and provides additional information that changes amounts in replacement support order, amends MORSO to show new amounts, and prepares and sends amended MORSO packages as in steps 3 through 5. If information does not produce change in amounts, reminds parent of opportunity to submit objection. (If response occurs after order is signed in step 8 or 10, explains review and modification procedures and supplies number for requesting modification packet from Customer Service Unit.)
7. If in response to MORSO obligated parent timely submits objection to motion, proceeds as applicable in steps 7a and 7b.
- a. If objection is received in regional office, immediately faxes objection (and mails original) to OALJ. (If objection is not timely, mails objection to OALJ and proceeds to step 13.)
 - b. Contacts objecting parent to attempt to resolve issues before hearing.

section: SPECIFYING A SUPPORT
AMOUNT DUE

subject: Motion and Order
Replacing Support Order

- i. If amended MORSO is appropriate, follows procedures in step 6.
- ii. If amended MORSO is not appropriate and
 - parent wishes to withdraw objection, instructs parent to notify OALJ in writing that request is withdrawn; proceeds to step 13.
 - parent maintains objection, documents contact and proceeds to step 9.

Office of the
Administrative
Law Judge
(OALJ)

8. Upon receipt of MORSO from caseworker, sets tickler for three mailing days plus 10 working days after date in first certificate of mailing. If advised by caseworker that MORSO has been resent to new address for any obligated parent, adjusts tickler to extend response time for that parent. If deemed service of process applies (step 5b(ii)), does not adjust response time.

- a. If no objection is timely received, obtains signature of Administrative Law Judge in deemed consent section and proceeds to step 11.
- b. If timely objection is received, schedules hearing on motion and proceeds to step 10.
- c. If amended MORSO is received from caseworker, resets tickler and follows procedures in this step (8a or 8b) as for original MORSO. If hearing was scheduled on first MORSO,
 - and no objection is timely received on amended MORSO, vacates hearing date.
 - and timely objection is received on amended MORSO, keeps original hearing date and adjusts hearing notices or other documents as necessary.

Caseworker

9. Prepares prima facie case for hearing; case

section: SPECIFYING A SUPPORT
AMOUNT DUE

subject: Motion and Order
Replacing Support Order

must include CSED's authority to proceed, existence of previously entered support order, and receipt of request (or deemed receipt of request) from obligated parent to replace non-guidelines order with order based on guidelines.

Prepares other aspects of case and participates in hearing as in section CS 401.3, Notice and Order Concerning Support, including pursuit of judgment listed in MORSO, if applicable.

Administrative
Law Judge
(ALJ)

10. Conducts hearing on CSED motion for replacement support order. Issues written decision and order.

OALJ

11. Upon obtaining signature of ALJ on replacement support order in step 8 or 10, enters SEARCHS case note for decision and order signed; signs and dates appropriate certificate of mailing (for deemed consent, uses second certificate of mailing in MORSO). Mails copies of replacement support order to parties, retaining original for file. Abstracts order to appropriate district court, enters SEARCHS case note, and mails copies of filed abstract to parties.

12. If objection is received after order is signed in step 8 or 10, obtains ALJ signature and processes order denying hearing for untimely objection.

Caseworker

13. Upon notification that replacement support order is entered adjusts SEARCHS accounts, updates SOD screen, and proceeds with enforcement (because of judgments in MORSO, withholding notice for new arrears amounts is not required). In case of oral notification at hearing, or electronic notification by SEARCHS tickler, enters appropriate SEARCHS case note and monitors for receipt of written copy.

In cases where income withholding is currently in place for arrears adjudicated under withholding process, and

section: SPECIFYING A SUPPORT
AMOUNT DUE

subject: Motion and Order
Replacing Support Order

- replacement is retroactive, or
- replacement is prospective and MORSO judgments include months not included in last SNOI, updates monthly withholding for arrears to 1/24th of total child support and Medicaid reimbursement judgments in MORSO. (Montana statute does not recognize previous adjudication of support debt in cases of retroactive replacement; for prospective replacement, update is required by CSED policy.)

If replacement is prospective and MORSO judgments do not include new months, monthly withholding for arrears may be maintained at existing amount.

Supercedes: CS 400.2 (2/4/80)

CS 401.9

Department of Revenue

SECTION

SPECIFYING A
SUPPORT AMOUNT DUE

SUBJECT:

CHILD SUPPORT ENFORCEMENT

Payment Negotiation
and Stipulation

Introduction: When the accumulated support arrearage is greater than the responsible parent's ability to pay, the Collection Specialist may utilize the procedure outlined below. Section 40-5-251, M.C.A.

ARREARAGE: LUMP SUM PAYMENT--Demand for unpaid support is made in a properly executed "Notice". When the responsible parent is able to pay this indebtedness, it is liquidated at once.

INSTALLMENT PAYMENTS--are warranted when the resources of the debtor are insufficient for immediate payment, or when such payment would endanger the payment of current support. Determine the obligor's ability to:

- . Borrow to satisfy the debt;
- . Use savings and other assets to satisfy the debt;
- . Assign an amount from wages monthly to satisfy the debt.

PAYMENT TERMS: WRITTEN AND SIGNED--Use Form CS-58, "Stipulation". Any terms, other than complete payment, are reduced to writing and approved by the Regional CSE Supervisor (as designated in Manual Document CS 002.2).

PRINCIPAL--Payable in equal installments of not less than \$25.00 per month.

INTEREST--Waived on the debt due the state as long as the responsible parent complies with the terms of the "Stipulation". Section 40-5-252, M.C.A.

SECTION:

SPECIFYING A
SUPPORT AMOUNT DUE

SUBJECT:

Payment Negotiation
and StipulationNEGOTIATION
SESSION:

UPON OBLIGOR'S REQUEST--After receiving a "Notice" the responsible parent may request a conference to discuss payment arrangements. This session should be conducted as soon as possible after the obligor indicates a need.

Note: The obligor's best interest is protected when the request for consideration is made under the procedure outlined in Manual Section CS 405.

PAYMENT
AGREEMENT:

FORM CS-58, "STIPULATION"--copies as follows:

Original--placed with file copy of "Notice".

First Copy--retained by the obligor.

Second Copy--sent to the Hearings Officer if the negotiation was carried out under his direction.

RE-EVALUATION--of the "Stipulation" is conducted half way through the payment life of the agreement, or two years after signing, whichever comes first.

Note: With the approval of the field office manager, the agreement may be reviewed at any time there appears to be a material change in the circumstances of the obligor.

o o o

SEE SAMPLE "STIPULATION" ON NEXT TWO PAGES.



SECTION

SPECIFYING A
SUPPORT AMOUNT DUE

SUBJECT:

Payment Negotiation
and Stipulation

CS-33

STATE OF MONTANA
DEPARTMENT OF REVENUE, BUREAU OF CHILD SUPPORT ENFORCEMENT

STATE OF MONTANA, acting by)
and through the DEPARTMENT)
OF REVENUE, ex. rel.)Mary Jones)

Plaintiff,)

-VS-)

Joe T. Jones)

Defendant.)

STIPULATION

Notice No. 5-122879-22

IT IS HEREBY STIPULATED AND AGREED by and between the parties
hereto that:

1. Defendant is the parent of the dependent child(ren)

Ida May Jones and Jennifer Jones2. Defendant acknowledges failure to provide support to
these children from the 1st day of August, 1979,
through the 31st day of January, 1980.3. Defendant acknowledges a support arrearage of \$ 138.00 :
which represents \$ 50.00 due as a debt to the State of Montana
arising from payments in the form of Aid to Families with
Dependent Children; and \$ 25.00 due as a debt to the State of
Montana arising from payments in the form of Medical Assistance;
and \$ 63.00 due to the minor children as unpaid support under
Cause No. 456789, entered in 12th District Court, Beavertown County, Montana.4. Defendant is able to make payments in satisfaction of the
arrearage debt of \$ 138.00 at the rate of \$ 25.00 per month
beginning on the 1st day of March, 1980, and continuing
each and every month thereafter until this arrearage is paid in
full, and that this amount is in addition to any current support
responsibility.5. Defendant acknowledges an ongoing support responsibility
for these child(ren) in the amount of \$ 25.00 per month.6. Defendant understands that upon default under this
stipulation the State of Montana, acting by and through the
Department of Revenue, may utilize all available legal remedies,
including Assignment of Earnings, for the collection of any
existing support arrearages, after applying all proper credits.7. The Department may reevaluate the rate of payment of
support arrearage at any time, and in any event no later than
May 1, 1980.8. Department agrees to waive interest on the debt due the
state of \$ 75.00 at the rate of 10 % per annum for every
month defendant completes payments as set forth in this stipulation.

SECTION:

SPECIFYING A
SUPPORT AMOUNT DUE

SUBJECT:

Payment Negotiation
and Stipulation

1 9. All payments under this stipulation will be made to:
2 Child Support Enforcement Bureau, P.O. Box 5955, Helena, Montana,
3 59601.

4 10. Defendant agrees to notify the Child Support Enforcement
5 Bureau, P.O. Box 5955, Helena, Montana 59601 within 10 days of
6 change of residence or employment.

7 DATED: February 4, 1980 /s/ Joe T. Jones
8 Defendant

9 DATED: February 4, 1980 /s/ (Collection Specialist)
10 Child Support Enforcement
11 Department of Revenue

12 STATE OF MONTANA)
13) ss.
14 COUNTY OF)

15 On this _____ day of _____, 19____, appeared before
16 me _____, the Defendant of the foregoing
17 instrument who duly acknowledged to me that he executed the same,
18 and received a copy of said Stipulation.

19 /s/
20 NOTARY PUBLIC
21 Residing in _____

22 My Commission Expires:

23
24
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29
30
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32 Supervisor's Initials TS Date 2/4/80

Department of Revenue

SECTION:

COURT ORDERED
SUPPORT AMOUNTS

SUBJECT:

Computing Support Debt

CHILD SUPPORT ENFORCEMENT

POLICY: When the department has been subrogated to or assigned the judgement created by a district court order, calculate the support debt accrued or accruing based on that order. Section 40-5-222 MCA.

DEFINITIONS: DISTRICT COURT ORDER--Any judgement or order of the district court of the state of Montana, or an order of a court of appropriate jurisdiction of another state, ordering payment of a set or determinable amount of support money. Section 40-5-201(5) MCA.

SUPPORT DEBT--The sum created by the failure to provide support to a dependant child under the decree of any court of appropriate jurisdiction ordering a sum to be paid as child support. Section 40-5-201(10) MCA.

PROCEDURE:

Responsibility

ACTION

.Collection or

Assessment Sp.

- 1A. Check records to see if any AFDC payments have been made for the children in this case.
- 1B. If AFDC payments were made prior to the court order and that order does not reduce such prior payments to a judgement, STOP! Go to the manual document, "Computing Support Debt and Support Liability".
2. Establish the oldest month covered by the subrogation or assignment of support rights.
3. Enter the court ordered support amount for each month in the appropriate column of the Debt Computation Worksheet.

SECTION:

COURT ORDERED
SUPPORT AMOUNTS

SUBJECT:

Computing Support Debt

4. Enter the amounts paid by the obligor in the months the amounts were received.

If an amount greater than the support amount was paid, the portion greater than the order is a credit (against past or future support obligations).

Note: Amounts paid by the obligor are verified through the use of "Form LP-6, Affidavit of Support Payment." Affidavits from the custodial parent, DOR Accounting, and the Clerk of the District Court may be necessary.

5. If the court order includes medical coverage that has not been paid, the costs covered by the court order are added to the support debt due.
6. Subtract the total support paid from the total ordered amount and enter the remainder in the "Notice of Support Debt".

NOTE:

AFDC PAYMENTS AFTER COURT ORDER--do not affect the issuance of Form CS-11. However, the Support Payments Unit needs to know how much is a debt due the state and how much is a debt due client.

Computation Guide--If AFDC payments have been made, see CS 403 for ideas and methods for calculating debt due the state.

Supercedes: CS 402.3 (9/15/80)

CS 402.3

Department of Revenue

SECTION:

COURT ORDERED
SUPPORT AMOUNTS

SUBJECT:

Notice of Support Debt/
Service of Notice

CHILD SUPPORT ENFORCEMENT

GENERAL RULE: When the Department has been subrogated to or assigned the judgement created by a District Court Order, effect service of Form CS-11, "Notice of Support Debt." Section 40-5-222, M.C.A.

DEFINITIONS: NOTICE OF SUPPORT DEBT--Includes the following required forms:

1. Form CS-11, "Notice of Support Debt";
2. Form CS-25/425, "Debt Computation Worksheet";
3. Form CS-49, "Request for Hearing";
4. Form CS-50, "Praecipe".

SERVICE--in person by:

- . The sheriff of the county where the party to be served is found;
- . The sheriff's deputy;
- . A constable authorized by law;
- . Any other person over the age of 18 not a party to the action.

PROCEDURE:

Responsibility

ACTION

PREPARATION OF NOTICE OF SUPPORT DEBT

- | | |
|--------------------------------|--|
| . Reg. Super./
Investigator | <ol style="list-style-type: none">1. Approve the calculations of the Assessment Specialist.2. Oversee the typing of Forms CS-11, CS-49, and CS-50. Do not approve forms with hand written insertions or strikeouts. |
|--------------------------------|--|

o o o

Dec. 15, 1983

Page 1 of 6

SECTION:

COURT ORDERED
SUPPORT AMOUNTS

SUBJECT:

Notice of Support Debt/
Service of Notice

- . Clerical 3. Create the "Notice No." as follows:

Region # Date Notice # Sequence

Example 1: The 22nd "Notice" issued in the
Missoula Region on December 28, 1979 would have
the Number 5-122879-22.

Example 2: The 4th "Notice" issued in the
Billings Region on January 8, 1980 would have
the Number 3-010880-4.

- . Reg. Super./
Investigator 4. Sign Forms CS-11 and CS-50.

SERVICE BY SHERIFF OF NOTICE OF SUPPORT DEBT

- . Clerical 1. Attach Forms CS-11, CS-25/425 and CS-49 to Form
CS-50, "Praecipe".
2. Make sure correct Notice Name and Number are enter-
ed on lines 15 and 16 of the "Praecipe".
- . Reg. Super./
Investigator 3. Check lines 24 through 27 for your correct name
and address.
- . Clerical 4. Enter an address where the defendant may be served.

Note: Provide information helpful to the Sheriff.
If you want the defendant served at work, include
a statement about the hours of his normal work
shift. The same information is relevant if you
want the defendant served at home. Include phy-
sical description if available.

5. Send the entire "Notice" package for service to
the sheriff of the appropriate Montana County.

RECORD KEEPING:

. Clerical

1. Case file: Place a photo or carbon copy of
signed numbered Notice in file. (Includes CS-11,
CS-25/425, CS-49, and CS-50.)
2. Accounting System: Submit correct amount of sup-
port and arrears to Support Payments Unit.
(Instructions in Chapter 600.)

SECTION:

COURT ORDERED
SUPPORT AMOUNTS

SUBJECT:

Notice of Support Debt/
Service of NoticeCS-11
(REV. 11/83)BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANASTATE OF MONTANA, acting by)
and through the DEPARTMENT)
OF REVENUE, ex rel.)

Mary Jones)

Plaintiff,)

-vs-)

Joe T. Jones)

Defendant.)

Notice No. 5-090983-22

NOTICE OF SUPPORT DEBT

* * * * *

YOU ARE HEREBY NOTIFIED THAT:

Public assistance in the form of Aid to Families with Dependent Children (AFDC) is being provided or has been provided for the benefit of minor children for whom you are legally responsible, namely: Ida May Jones and Jennifer Jones

Under Section 53-2-613, M.C.A., as a condition for the payment of public assistance, all rights to support and/or medical payments which you are obligated to pay, were assigned to the State of Montana, including all delinquent or unpaid amounts which are owing at the time of assignment. Further, as provided by Section 40-5-202, M.C.A., the Department of Revenue is subrogated to the money judgement created by court orders for child support.

NOTICE is additionally given that the payment of public assistance funds to or for the benefit of your minor child(ren) creates or has created a debt which you are obligated to pay to the State of Montana, as provided by Sections 40-5-221 and 53-4-248, M.C.A.

The Department of Revenue has determined that you owe or are required to pay child support as follows:

1. \$ 800.00 for accrued but unpaid child support which you were to have paid pursuant to the order dated January 12, 1982, entered by the Twelfth District Court, Bounty County, State of Montana, in Cause No. 456789, during the period from January 12, 1982 through August 31, 1982.
2. \$ 100.00 per month for current and future support as ordered by the above described Court.

You are required to pay to the Department of Revenue within 30 days after receipt of this notice, \$ 800.00 which is the total debt due to the State of Montana as specified above. You are also required to pay current support of \$ 100.00 per month each month until modified by a subsequent Court Order. After any such modification, you are to pay the amount as modified each month. Should you fail to pay this monthly support when due, it becomes an accrued past debt to be collected from you in full by the State of Montana as provided below.

If you are in agreement with the total amount of this support debt, contact the Investigator listed below within 30 days of receipt of this notice to pay your debt in full or make arrangements for monthly installments.

that is attached to the support order entered by the CSED following service of this notice. If no Montana Child Support Guidelines worksheet is attached to the support order, the Obligee and Obligor should each be responsible for 50% of these costs. When the application of the parental share percentages creates an amount owed by one parent to the other parent, it is the responsibility of the parent owing the money, not the CSED, to pay the other parent. The requirement for sharing expenses does not relieve either parent of the initial or continuing obligation to provide health insurance.

6. If no insurance is available for the children named above at a reasonable cost and the children are recipients of medical assistance under Title XIX of the Social Security Act (Medicaid):

- (a) The Obligor should contribute the sum of \$50.00 per month, per child, to the State of Montana to assist with payment of medical expenses for each child, except when the Obligor is also a Medicaid recipient together with the children named above.
- (b) The Obligee should contribute the sum of \$50.00 per month, per child, to the State of Montana to assist with payment of medical expenses for each child, except when the Obligee is also a Medicaid recipient together with the children named above.

A debt should not accrue, and the CSED should not collect amounts stated in (a) and (b) above against a parent, while that parent is receiving public assistance money from the State of Montana.

7. The CSED can charge a penalty of up to \$25.00 per day for each day that insurance is not provided when available at a reasonable cost and required by the terms of an order, and an additional penalty of \$25.00 per day for each day that the Obligor or Obligee fails to inform the CSED about the insurance.

October 23, 1996

Investigator

IMPORTANT: If you disagree with any part of this notice, you must take one or both of the following actions.

- **Contact the CSED at the telephone number listed above to discuss your objection(s).**
- **Request a medical hearing. The request must be received within twenty (20) days after the date you received this notice.**

Informal discussions with the CSED do not lengthen the time allowed for requesting a hearing.

If you ignore this notice for any reason, the CSED will enter a final medical support order. The order can require you to provide the medical support for so long as the law requires.

HOW TO REQUEST A MEDICAL HEARING

You have a right to object to this notice and have your objection(s) heard at an administrative hearing. To do so, complete the attached medical hearing request form or its equivalent. Send or deliver it, along with any documents you want considered at the hearing, to the CSED Office of the Administrative Law Judge (OALJ). The OALJ will inform you in writing of the date, time and place of the hearing. The OALJ will mail the hearing notice and all other documents to the address you provide. You must inform the OALJ immediately if you change your address. If you do not attend the hearing, the OALJ will enter an order against you according to the terms of this notice.

The CSED intends to file the final medical support order with a district court. When filed, the law treats it like a district court order.

LEGAL BASIS OF THIS NOTICE

The CSED has a right to order you to provide medical support under MCA Title 40, Chapter 5, Part 8. Administrative hearings are "contested cases" under the Montana Administrative Procedures Act. The rules of the CSED, as published in the Administrative Rules of Montana, also apply.

STATE OF MONTANA
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION
(406) 442-7278

Case Number: _____ **Obligee** _____
In Re the Medical Support Obligation Of: _____
_____ **Obligor** _____ **Children** _____

NOTICE OF MEDICAL RESPONSIBILITY

The Child Support Enforcement Division (CSED) believes the Obligor should provide medical support for the above-named children, while the children reside with the Obligee or any later custodian.

1. The Obligor should be ordered to provide insurance when it is available, whether individually, or through an employer, union or other group at a reasonable cost. Such coverage should continue until the child turns 18 or, if the child is still in high school, until the child graduates from high school or turns 19, whichever occurs first, unless the child is sooner emancipated.
2. The Obligor should be responsible for a share of the following costs: the premium for coverage, all co-payments and deductibles required for coverage, and any uncovered medical expenses for the child. The Obligor should be responsible for a share of these costs according to the Obligor's parental share percentage contained in the applicable guidelines calculation. The applicable guidelines calculation means any Montana Child Support Guidelines worksheet or equivalent document that is attached to the support order entered by the CSED following service of this notice. If no Montana Child Support Guidelines worksheet is attached to the support order, the Obligor should be responsible for 50% of these costs. When the application of the parental share percentages creates an amount owed to the other parent, it is the responsibility of the parent owing the money, not the CSED, to pay the other parent. The requirement for sharing expenses does not relieve the Obligor of the initial or continuing obligation to provide health insurance.
3. The Obligor should submit all necessary information to provide available coverage to the child and reimburse the paying party or to pay the provider of services, as required.
4. If no insurance is available for the children named above at a reasonable cost and the children are recipients of medical assistance under Title XIX of the Social Security Act (Medicaid), the Obligor should contribute the sum of \$50.00 per month, per child, to the State of Montana to assist with payment of medical

expenses for each child, except when the Obligor is also a Medicaid recipient together with the children named above. A debt should not accrue, and the CSED should not collect amounts stated in this paragraph while the Obligor is receiving public assistance money from the State of Montana.

5. The CSED can charge a penalty of up to \$25.00 per day for each day that insurance is not provided when available at a reasonable cost and required by the terms of an order, and an additional penalty of \$25.00 per day for each day that the Obligor fails to inform the CSED about the insurance.

October 23, 1996

Investigator

IMPORTANT: If you disagree with any part of this notice, you must take one or both of the following actions.

- **Contact the CSED at the telephone number listed above to discuss your objection(s).**
- **Request a medical hearing. The request must be received within twenty (20) days after the date you received this notice.**

Informal discussions with the CSED do not lengthen the time allowed for requesting a hearing.

If you ignore this notice for any reason, the CSED will enter a final medical support order. The order can require you to provide the medical support for so long as the law requires.

HOW TO REQUEST A MEDICAL HEARING

You have a right to object to this notice and have your objection(s) heard at an administrative hearing. To do so, complete the attached medical hearing request form or its equivalent. Send or deliver it, along with any documents you want considered at the medical hearing, to the CSED Office of the Administrative Law Judge (OALJ). The OALJ will inform you in writing of the date, time and place of the hearing. The OALJ will mail the hearing notice and all other documents to the address you provide. You must inform the OALJ immediately if you change your address. If you do not attend the hearing, the OALJ will enter an order against you according to the terms of this notice.

The CSED intends to file the final medical support order with a district court. When filed, the law treats it like a district court order.

LEGAL BASIS OF THIS NOTICE

The CSED has a right to order you to provide medical support under MCA Title 40, Chapter 5, Part 8. Administrative hearings are "contested cases" under the Montana Administrative Procedures Act. The rules of the CSED, as published in the Administrative Rules of Montana, also apply.

**STATE OF MONTANA
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION**

Return Request to:

Child Support Enforcement Division
Office of the Administrative Law Judge
111 North Jackson
Helena, Montana 59620

REQUEST FOR MEDICAL HEARING

I request a hearing. I will be represented/accompanied by:

Name: _____ Phone Number: _____

Address: _____

This person: ☐ is an attorney. ☐ is not an attorney.

My reasons for requesting a hearing are:

Your Signature: _____ Date: _____

Social Security No: _____ Phone Number: _____

Address: _____ Phone Number Where You Can be Reached

_____ For Hearing: _____

You may settle your case informally without need for a formal hearing, even if the hearing officer denies your hearing request. To do so, contact the CSED at (406) 442-7278, or write to

Informal discussions do not extend the time allowed to request a hearing.

SEE OTHER SIDE FOR ADDITIONAL INFORMATION

FOR CSED USE ONLY

Obligor: _____

Obligee: _____

Case Number: _____

Investigator: _____

Region: _____

Date of Service: _____

Hearing Exhibits Due: _____

Hearing to be Held By: _____

HEARING INFORMATION

You have the right to a hearing before an independent administrative hearing officer. Facts which may affect your hearing rights are described below:

1. Hearing requests which are not received within the time specified in the notice may be denied.
2. The request for hearing must include your name, social security number, your current address, and telephone number. If you do not have a telephone, you must provide a number where you can be reached for the hearing. This may be the number of a neighbor, friend, relative, employer or other person.
3. The request for hearing must state your reason(s) for requesting a hearing. You must state why you think the notice is wrong. If you do not, the hearing officer will deny your hearing request. Your reasons may include:
 - a mistake about your identity.
 - a mistake about your legal obligation to provide medical support for the children named in the Notice of Medical Responsibility.
 - a medical support order for the children named in the Notice of Medical Responsibility is already in effect.
 - the amount of the contribution for Medicaid-recipient children is not appropriate to the circumstances.
4. The hearing officer will decide the facts and will consider your defense(s). The hearing officer cannot decide issues of visitation, custody, paternity, or how the obligee uses the support or public assistance money during this hearing. The hearing officer cannot change an existing support order.
5. The Office of the Administrative Law Judge (OALJ) will inform you in writing of the time, date and place for the hearing. The OALJ will mail the hearing notice and other hearing papers to the address you provide. You must keep the OALJ informed of any change(s) in your address.
6. The hearing will be held by telephone unless the hearing officer determines an in-person hearing is appropriate. If the hearing is held by telephone, you will receive additional information about telephone hearing procedures.
7. You have the right to appear by yourself or with an attorney, or may have an attorney appear for you. If you hire an attorney, it is your responsibility to pay any fees charged for such representation.

STATE OF MONTANA
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION
(406) 442-7278

Case Number: _____

In Re the Medical Support Obligation Of:

Obligor

Obligee

Children

CONSENT TO MEDICAL SUPPORT ORDER

1. A Notice of Medical Responsibility was served with a Notice of Financial Responsibility or a Notice of Temporary Support Obligation on the Obligor on _____.
2. A Notice of Medical Responsibility was served on the Obligee on _____.
3. By my signature below, I agree that a Medical Support Order shall be issued as follows:

The Obligor shall provide insurance when it is available, whether individually, or through an employer, union or other group at a reasonable cost. Such coverage shall continue until the child turns 18 or, if the child is still in high school, until the child graduates from high school or turns 19, whichever occurs first, unless the child is sooner emancipated.

The Obligee shall provide insurance when it is available, whether individually, or through an employer, union or other group at a reasonable cost. Such coverage shall continue until the child turns 18 or, if the child is still in high school, until the child graduates from high school or turns 19, whichever occurs first, unless the child is sooner emancipated.

If health insurance is available to both parents and the combination of the two plans is cost-beneficial and the benefits are complementary, both the Obligor and the Obligee shall provide insurance.

The Obligor and the Obligee shall cooperate and submit all necessary information to provide available coverage to the child and to reimburse the paying party or to pay the provider of services, as required.

The costs of the premium for coverage, all co-payments and deductibles required for coverage and any medical expenses for the child not covered shall be shared

between the Obligor and Obligee. The Obligor and Obligee shall each be responsible for these costs according to the parental share percentages contained in the applicable guidelines calculation. The applicable guidelines calculation means any Montana Child Support Guidelines worksheet or equivalent document that is attached to the support order entered following service of the Notice of Financial Responsibility or Notice of Temporary Support Obligation on the Obligor on _____. If no Montana Child Support Guidelines worksheet is attached to the support order, the Obligee and Obligor shall each be responsible for 50% of these costs. When the application of the parental share percentages creates an amount owed by one parent to the other parent, it is the responsibility of the parent owing the money, not the CSER, to pay the other parent. The requirement for sharing expenses does not relieve either parent of the initial or continuing obligation to provide health insurance as described in this authorization.

If no insurance is available for the children named above at a reasonable cost and the children are recipients of medical assistance under Title XIX of the Social Security Act (Medicaid):

- (a) The Obligor shall contribute the sum of \$50.00 per month, per child, to the State of Montana to assist with payment of medical expenses for each child, except when the Obligor is also a Medicaid recipient together with the children named above.
- (b) The Obligee shall contribute the sum of \$50.00 per month, per child, to the State of Montana to assist with payment of medical expenses for each child, except when the Obligee is also a Medicaid recipient together with the children named above.

A debt shall not accrue, and the CSER shall not collect amounts stated in (a) and (b) above against a parent, while that parent is receiving public assistance money from the State of Montana.

I understand and give up these rights:

1. The right to an administrative hearing concerning the establishment of a medical support obligation. At a hearing, I would have the right to:
 - (a) testify, present evidence, and have witnesses testify on my behalf.
 - (b) object to exhibits and evidence and to cross-examine witnesses.
 - (c) have the CSER prove my medical obligation by a preponderance of the evidence.
2. The right to have a District Court review the decision of the CSER Hearing Officer.
3. The right to receive a Notice of Medical Responsibility or its equivalent, if the notice has not already been served on me. I give up the right to receive this notice prior to entry of the order based on this consent.

I understand that the CSED can charge a penalty of up to \$25.00 per day for each day that insurance is not provided when available at a reasonable cost and required by the terms of this authorization, and an additional penalty of \$25.00 per day for each day that I fail to inform the CSED about the insurance.

The terms of the medial support order based on this consent shall continue to apply to both the Obligor and the Obligee while the children reside with the Obligee or any later custodian.

I understand that the CSED will file the order based on this consent with a District Court. When filed, the law honors it like a District Court order.

I understand that I may not later withdraw this authorization.

I am not intoxicated, or suffering from any mental or emotional condition which would keep me from giving my authorization.

I make this authorization because it is in my best interest to do so.

Date

Parent's Signature

Before me, a Notary Public for this State, personally appeared the parent, known by me to be the person named in the foregoing CONSENT TO MEDICAL SUPPORT ORDER, and executed the same in my presence.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day, month and year hereinabove written.

(S E A L)

NOTARY PUBLIC

Residing at:_____

My Commission Expires:_____

(406) 442-7278

Obligee

Obligor

Children

1. A Notice of Medical Responsibility was served with a Notice of Financial Responsibility or a Notice of Temporary Support Obligation on the Obligor on _____.
2. By my signature below, I agree that a Medical Support Order should be issued as follows:

I shall provide insurance when it is available, whether individually, or through an employer, union or other group at a reasonable cost. Such coverage shall continue until the child turns 18 or, if the child is still in high school, until the child graduates from high school or turns 19, whichever occurs first, unless the child is sooner emancipated.

I shall be responsible for a share of the following costs: the premium for coverage, all co-payments and deductibles required for coverage, and any uncovered medical expenses for the child. I shall be responsible for a share of these costs according to my parental share percentage contained in the applicable guidelines calculation. The applicable guidelines calculation means any Montana Child Support Guidelines worksheet or equivalent document that is attached to the support order entered following service of the Notice of Financial Responsibility or Notice of Temporary Support Obligation on me on _____. If no Montana Child Support Guidelines worksheet is attached to the support order, I shall be responsible for 50% of these costs. When the application of the parental share percentages creates an amount owed to the other parent, it is the responsibility of the parent owing the money, not the CSED, to pay the other parent. The requirement for sharing expenses does not relieve me of the initial or continuing obligation to provide health insurance as described in this authorization.

I shall cooperate and submit all necessary information to provide available coverage to the child and to reimburse the paying party or to pay the provider of services, as required.

If no insurance is available for the children at a reasonable cost and medical assistance under Title XIX of the Social Security Act (Medicaid), is provided for the

children named above, I shall contribute the sum of \$50.00 per month, per child to the State of Montana to assist with payment of medical expenses for each child, except when I am also a Medicaid recipient together with the above-named children. A debt shall not accrue, and the CSED shall not collect amounts stated in this paragraph while I am receiving public assistance money from the State of Montana.

I understand and give up these rights:

1. The right to an administrative hearing concerning the establishment of a medical support obligation. At a hearing, I would have the right to:
 - (a) testify, present evidence, and have witnesses testify on my behalf.
 - (b) object to exhibits and evidence and to cross-examine witnesses.
 - (c) have the CSED prove my medical obligation by a preponderance of the evidence.
2. The right to have a District Court review the decision of the CSED Hearing Officer.
3. The right to receive a Notice of Medical Responsibility or its equivalent, if the notice has not already been served on me. I give up the right to receive this notice prior to entry of the order based on this consent.

I understand that the CSED can charge a penalty of up to \$25.00 per day for each day that insurance is not provided when available at a reasonable cost and required by the terms of this authorization, and an additional penalty of \$25.00 per day for each day that I fail to inform the CSED about the insurance. I understand that the CSED will file the order based on this consent with a District Court. When filed, the law honors it like a District Court order.

The terms of the medical support order based on this consent shall continue to apply while the children reside with the current Obligee or any later custodian.

I understand that I may not later withdraw this authorization.

I am not intoxicated, or suffering from any mental or emotional condition which would keep me from giving my authorization.

I make this authorization because it is in my best interest to do so.

Date

Parent's Signature

Before me, a Notary Public for this State, personally appeared the parent, known by me to be the person named in the foregoing **CONSENT TO MEDICAL SUPPORT ORDER**, and executed the same in my presence.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day, month and year hereinabove written.

(S E A L)

NOTARY PUBLIC

Residing at:_____

My Commission Expires:_____

STATE OF MONTANA
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION
(406) 442-7278

Case Number: _____

In Re the Medical Support Obligation Of:

Obligor

Obligee

Children

MEDICAL CONSENT ORDER

Upon the attached authorization(s) and for good cause appearing, IT IS HEREBY SO ORDERED. This order may be subject to review and modification under provisions of MCA Title 40, Chapter 5, Part 2.

DATED this _____ day of _____, 19_____.

Administrative Law Judge/Hearing Officer
Child Support Enforcement Division

CERTIFICATE OF MAILING

This is to certify that I, one of the legal unit administrative staff, deposited in the regular U. S. Mail, postage prepaid on the _____ day of _____, 19_____, a true and correct copy of the foregoing Medical Consent Order to the following:

Hearings Assistant

STATE OF MONTANA
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION
(406) 442-7278

Case Number: _____

Obligee

In Re the Medical Support Obligation Of: _____

Obligor

Children

MEDICAL CONSENT ORDER

Upon the attached authorization(s) and for good cause appearing, IT IS HEREBY SO ORDERED. This order may be subject to review and modification under provisions of MCA Title 40, Chapter 5, Part 2.

DATED this _____ day of _____, 19____.

Administrative Law Judge/Hearing Officer
Child Support Enforcement Division

CERTIFICATE OF MAILING

This is to certify that I, one of the legal unit administrative staff, deposited in the regular U. S. Mail, postage prepaid on the ____ day of _____, 19____, a true and correct copy of the foregoing Medical Consent Order to the following:

Hearings Assistant

STATE OF MONTANA
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION
(406) 442-7278

Case Number: _____

In Re the Medical Support Obligation Of:

Obligor

Obligee

Children

**MEDICAL CONSENT AND DEFAULT
SUPPORT ORDER**

Upon the attached authorization and the record in this matter, the Hearing Officer makes the following:

FINDINGS OF FACT

1. A Notice of Medical Responsibility was served with a Notice of Financial Responsibility or Notice of Temporary Support Obligation on the Obligor on _____.
2. A Notice of Medical Responsibility was served on the Obligee on _____.
3. The Notice of Medical Responsibility alleged that the Obligor and Obligee should provide health insurance for the children.
4. The ☐ Obligor ☐ Obligee has not requested a hearing in writing as of this date and is in default.

CONCLUSIONS OF LAW

1. The CSED has jurisdiction in this matter under authority of MCA section 40-5-225 and Title 40 Ch. 5, part 8.
2. The Obligor and Obligee are responsible for the medical support of the minor children named above.
3. A Notice of Medical Responsibility was served on the Obligor and Obligee as provided by law.
4. The ☐ Obligor ☐ Obligee consented to entry of a medical support order.

5. The ☐ Obligor ☐ Obligee did not timely request a hearing in writing and is in default.

DECISION AND ORDER

UPON the record and the foregoing, the Hearing Officer ORDERS:

1. The Obligor shall provide insurance when it is available, whether individually, or through an employer, union or other group at a reasonable cost. Such coverage shall continue until the child turns 18 or, if the child is still in high school, until the child graduates from high school or turns 19, whichever occurs first, unless the child is sooner emancipated.
2. The Obligee shall provide insurance when it is available, whether individually, or through an employer, union or other group at a reasonable cost. Such coverage shall continue until the child turns 18 or, if the child is still in high school, until the child graduates from high school or turns 19, whichever occurs first, unless the child is sooner emancipated.
3. If health insurance is available to both parents and the combination of the two plans is cost-beneficial and the benefits are complementary, both the Obligor and the Obligee shall provide insurance.
4. The Obligee and Obligor shall cooperate and submit all necessary information to provide available coverage to the child and reimburse the paying party or to pay the provider of services, as required.
5. The costs of the premium for coverage, all co-payments and deductibles required for coverage and any medical expenses for the child not covered shall be shared between the Obligor and Obligee. The Obligor and Obligee shall each be responsible for these costs according to the parental share percentages contained in the applicable guidelines calculation. The applicable guidelines calculation means any Montana Child Support Guidelines worksheet or equivalent document that is attached to the support order entered following service of the Notice of Financial Responsibility or Notice of Temporary Support Obligation on the Obligor on _____. If no Montana Child Support Guidelines worksheet is attached to the support order, the Obligee and Obligor shall each be responsible for 50% of these costs. When the application of the parental share percentages creates an amount owed by one parent to the other parent, it is the responsibility of the parent owing the money, not the CSED, to pay the other parent. The requirement for sharing expenses does not relieve either parent of the initial or continuing obligation to provide health insurance under this order.
6. If no insurance is available for the children named above at a reasonable cost and the children are recipients of medical assistance under Title XIX of the Social Security Act (Medicaid):
 - (a) The Obligor shall contribute the sum of \$50.00 per month, per child, to

the State of Montana to assist with payment of medical expenses for each child, except when the Obligor is also a Medicaid recipient together with the children named above.

- (b) The Obligee shall contribute the sum of \$50.00 per month, per child, to the State of Montana to assist with payment of medical expenses for each child, except when the Obligee is also a Medicaid recipient together with the children named above.

A debt shall not accrue, and the CSED shall not collect amounts stated in (a) and (b) above against a parent, while that parent is receiving public assistance money from the State of Montana.

7. This order is subject to review and modification under MCA Title 40, Ch. 5, Part 2.
8. The CSED can charge a penalty of up to \$25.00 for each day that insurance is not provided and \$25.00 for each day that the Obligor or Obligee fails to inform the CSED about the insurance.
9. The terms of this Medical Consent and Default Support Order shall continue to apply to both the Obligee and the Obligor while the children reside with the Obligee or any later custodian.

Date

Administrative Law Judge/Hearing Officer
Child Support Enforcement Division

This order is subject to district court review under MCA § 40-5-253 and MCA Title 2, Chapter 4, Part 7.

CERTIFICATE OF MAILING

This is to certify that I, one of the legal unit administrative staff, deposited in the regular U.S. Mail, postage prepaid on _____, 19_____, a true and correct copy of the foregoing **MEDICAL CONSENT AND DEFAULT SUPPORT ORDER** to the following:

Hearings Assistant

STATE OF MONTANA
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION
(406) 442-7278

Case Number: _____

In Re the Medical Support Obligation Of:

Obligor

Obligee

Children

MEDICAL DEFAULT SUPPORT ORDER

UPON the record, the Hearing Officer makes the following:

FINDINGS OF FACT

1. A Notice of Medical Responsibility was served with a Notice of Financial Responsibility or Notice of Temporary Support Obligation on the Obligor on _____.
2. A Notice of Medical Responsibility was served on the Obligee on _____.
3. The Notice of Medical Responsibility alleged that the Obligor and Obligee should provide health insurance and other medical support for the children.
4. No request for hearing has been received in writing as of this date. The Obligor and Obligee are in default.

CONCLUSIONS OF LAW

1. The CSED has jurisdiction in this matter under authority of MCA section 40-5-225 and Title 40 Ch. 5, part 8.
2. The Obligor and Obligee are responsible for the medical support of the minor children named above.
3. A Notice of Medical Responsibility was served on the Obligor and Obligee as provided by law.
4. The Obligee and Obligor did not timely request a hearing in writing and are in default.

DECISION AND ORDER

UPON the record and the foregoing, the Hearing Officer ORDERS:

1. The Obligor shall provide insurance when it is available, whether individually, or through an employer, union or other group at a reasonable cost. Such coverage shall continue until the child turns 18 or, if the child is still in high school, until the child graduates from high school or turns 19, whichever occurs first, unless the child is sooner emancipated.
2. The Obligee shall provide insurance when it is available, whether individually, or through an employer, union or other group at a reasonable cost. Such coverage shall continue until the child turns 18 or, if the child is still in high school, until the child graduates from high school or turns 19, whichever occurs first, unless the child is sooner emancipated.
3. If health insurance is available to both parents and the combination of the two plans is cost-beneficial and the benefits are complementary, both the Obligor and the Obligee shall provide insurance.
4. The Obligee and Obligor shall cooperate and submit all necessary information to provide available coverage to the child and reimburse the paying party or to pay the provider of services, as required.
5. The costs of the premium for coverage, all co-payments and deductibles required for coverage and any medical expenses for the child not covered shall be shared between the Obligor and Obligee. The Obligor and Obligee shall each be responsible for these costs according to the parental share percentages contained in the applicable guidelines calculation. The applicable guidelines calculation means any Montana Child Support Guidelines worksheet or equivalent document that is attached to the support order entered following service of the Notice of Financial Responsibility or Notice of Temporary Support Obligation on the Obligor on _____. If no Montana Child Support Guidelines worksheet is attached to the support order, the Obligee and Obligor shall each be responsible for 50% of these costs. When the application of the parental share percentages creates an amount owed by one parent to the other parent, it is the responsibility of the parent owing the money, not the CSED, to pay the other parent. The requirement for sharing expenses does not relieve either parent of the initial or continuing obligation to provide health insurance under this order.
6. If no insurance is available for the children named above at a reasonable cost and the children are recipients of medical assistance under Title XIX of the Social Security Act (Medicaid):
 - (a) The Obligor shall contribute the sum of \$50.00 per month, per child, to the State of Montana to assist with payment of medical expenses for each child, except when the Obligor is also a Medicaid recipient together with the children named above.

- (b) The Obligee shall contribute the sum of \$50.00 per month, per child, to the State of Montana to assist with payment of medical expenses for each child, except when the Obligee is also a Medicaid recipient together with the children named above.

A debt shall not accrue, and the CSED shall not collect amounts stated in (a) and (b) above against a parent, while that parent is receiving public assistance money from the State of Montana.

7. This order is subject to review and modification under MCA Title 40, Ch. 5, Part 2.
8. The CSED can charge a penalty of up to \$25.00 for each day that insurance is not provided and \$25.00 for each day that the Obligor or Obligee fails to inform the CSED about the insurance.
9. The terms of this Medical Default Support Order shall continue to apply to both the Obligee and the Obligor while the children reside with the Obligee or any later custodian.

Date

Administrative Law Judge / Hearing Officer
Child Support Enforcement Division

This order is subject to district court review under MCA § 40-5-253 and MCA Title 2, Chapter 4, Part 7.

CERTIFICATE OF MAILING

This is to certify that I, one of the legal unit administrative staff, deposited in the regular U.S. Mail, postage prepaid on _____, 19_____, a true and correct copy of the foregoing MEDICAL DEFAULT SUPPORT ORDER to the following:

Hearings Assistant

STATE OF MONTANA
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION
(406) 442-7278

Case Number: _____

Obligee

In Re the Medical Support Obligation Of: _____

Obligor

Children

MEDICAL DEFAULT SUPPORT ORDER

UPON the record, the Hearing Officer makes the following:

FINDINGS OF FACT

1. A Notice of Medical Responsibility was served with a Notice of Financial Responsibility or Notice of Temporary Support Obligation on the Obligor on _____.
2. The Notice of Medical Responsibility alleged that the Obligor should provide health insurance for the children.
3. No request for hearing has been received in writing as of this date. The Obligor is in default.

CONCLUSIONS OF LAW

1. The CSED has jurisdiction in this matter under authority of MCA section 40-5-225 and Title 40 Ch. 5, part 8.
2. The Obligor is responsible for the medical support of the minor children named above.
3. A Notice of Medical Responsibility was served as provided by law.
4. The Obligor did not timely request a hearing in writing and is in default.

DECISION AND ORDER

UPON the record and the foregoing, the Hearing Officer ORDERS:

1. The Obligor shall provide insurance when it is available, whether individually, or through an employer, union or other group at a reasonable cost. Such coverage shall continue until the child turns 18 or, if the child is still in high school, until the child graduates from high school or turns 19, whichever occurs first, unless

the child is sooner emancipated.

2. The Obligor shall be responsible for a share of the following costs: the premium for coverage, all co-payments and deductibles required for coverage, and any uncovered medical expenses for the child. The Obligor shall be responsible for a share of these costs according to the Obligor's parental share percentage contained in the applicable guidelines calculation. The applicable guidelines calculation means any Montana Child Support Guidelines worksheet or equivalent document that is attached to the support order entered following service of the Notice of Financial Responsibility or Notice of Temporary Support Obligation on the Obligor on _____. If no Montana Child Support Guidelines worksheet is attached to the support order, the Obligor shall be responsible for 50% of these costs. When the application of the parental share percentages creates an amount owed to the other parent, it is the responsibility of the parent owing the money, not the CSED, to pay the other parent. The requirement for sharing expenses does not relieve the Obligor of the initial or continuing obligation to provide health insurance under this order.
3. The Obligor shall cooperate and submit all necessary information to provide available coverage to the child and reimburse the paying party or to pay the provider of services, as required.
4. If no insurance is available for the children at a reasonable cost and medical assistance under Title XIX of the Social Security Act (Medicaid), is provided for the children named above, the Obligor shall contribute the sum of \$50.00 per month, per child to the State of Montana to assist with payment of medical expenses for each child, except when the Obligor is also a Medicaid recipient together with the above-named children. A debt shall not accrue, and the CSED shall not collect amounts stated in this paragraph while the Obligor is receiving public assistance money from the State of Montana.
5. This order is subject to review and modification under MCA Title 40, Ch. 5, Part 2.
6. The CSED can charge a penalty of up to \$25.00 for each day that insurance is not provided and \$25.00 for each day that the Obligor fails to inform the CSED about the insurance.
7. The terms of this Medical Default Support Order shall continue to apply while the children reside with the current Obligee or any later custodian.

Date

Administrative Law Judge / Hearing Officer
Child Support Enforcement Division

This order is subject to district court review under MCA § 40-5-253 and MCA Title 2, Chapter 4, Part 7.

CERTIFICATE OF MAILING

This is to certify that I, one of the legal unit administrative staff, deposited in the regular U.S. Mail, postage prepaid on _____, 19_____, a true and correct copy of the foregoing MEDICAL DEFAULT SUPPORT ORDER to the following:

Hearings Assistant

STATE OF MONTANA
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION
(406) 442-7278

October 25, 1996

Case Number: _____

Obligor: _____

INFORMATION CONCERNING NOTICE OF MEDICAL RESPONSIBILITY

The Child Support Enforcement Division (CSED) is taking legal action to establish medical support for the children named in the Notice of Medical Responsibility. The CSED intends to establish a medical support order requiring both you (the obligee) and the obligor to provide medical support for the children. The CSED will enforce only the obligor's portion of the medical support order. We will enforce your portion of the order only if you cease to be the custodian of the children.

If you agree with the enclosed notice, please sign the enclosed Consent to Medical Support Order and return it within 20 days to the CSED.

If you do not agree, please sign and return the enclosed Acknowledgment of Receipt of Notice and Waiver of Service within 20 days. If you do not return the Acknowledgment we will be required to have the Sheriff's department serve the notice on you, and you may be charged for the cost of that service.

After acknowledging receipt or being served, you will have 20 days to act on the notice. You may consent to a medical support order or you may request a hearing. If you do neither, we will enter a medical default support order against you. Please contact the CSED if you have any questions about the enclosed forms, or if you have any concerns about establishing a medical support obligation.

STATE OF MONTANA
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION
(406) 442-7278

October 25, 1996

Case Number: _____

Obligor: _____

INFORMATION CONCERNING NOTICE OF MEDICAL RESPONSIBILITY

The Child Support Enforcement Division (CSED) is taking legal action to establish medical support for the children named in the Notice of Medical Responsibility. The CSED intends to establish a medical support order requiring both you (the obligee) and the obligor to provide medical support for the children. The CSED will enforce only the obligor's portion of the medical support order. We will enforce your portion of the order only if you cease to be the custodian of the children.

You may respond to this notice by taking any of the following actions:

- (1) Sign and return the enclosed Consent to Medical Support Order
- (2) Sign and return the enclosed Acknowledgment of Receipt of Notice and Waiver of Service
- (3) Complete, sign, and return the enclosed Request for Medical Hearing
- (4) Take no action.

Actions (1), (2), and (3) above give the CSED jurisdiction to establish your medical support obligation; action (1) also allows the CSED to immediately enter a medical support order as described in the notice. If you do not take action in (1), (2), or (3), the CSED may attempt to obtain jurisdiction by other means, or may proceed to establish a medical support obligation against the obligor alone.

Please contact the CSED immediately if you have any questions about the enclosed forms, or if you have any concerns about establishing a medical support obligation.

STATE OF MONTANA
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION
(406) 442-7278

October 25, 1996

Case Number: _____

Other Parent: _____

Obligee (If different from other parent): _____

ABOUT THE NOTICES IN THIS PACKAGE

PLEASE TAKE NOTE: You have been served with two separate legal actions:

- (1) Notice of Medical Responsibility**
- (2) Notice of Financial Responsibility.**

You must respond to each notice separately. If you respond to only one notice, we cannot assume you are also responding to the other. Please read each notice carefully. You have 20 days to respond appropriately to each notice; these two 20-day periods run at the same time.

NOTICE OF MEDICAL RESPONSIBILITY

The Child Support Enforcement Division (CSED) is taking legal action to establish a medical support order for the children named in the Notice of Medical Responsibility; the medical support order will require you to get and keep health insurance for the children and to reimburse the state for any Medicaid payments to the children under certain conditions. Your options in this action are explained in the notice. If you do not respond promptly and according to these options, the CSED will enter a default medical support order against you and will commence enforcement of your medical support obligation.

NOTICE OF FINANCIAL RESPONSIBILITY

The Notice of Financial Responsibility begins legal action to establish a financial

support obligation for the children named in the notice. This is a separate process from the medical support process (the Notice of Medical Responsibility), and the amount of the child support obligation is not affected by the provisions for medical support. If you do not respond to the Notice of Financial Responsibility, the child support amount will be determined by default (see below).

FURTHER INFORMATION ABOUT THE NOTICE OF FINANCIAL RESPONSIBILITY

The support amount in the Notice of Financial Responsibility is based on the minimum needs of the child as determined by the State of Montana AFDC Program. If you do not agree with the amount in the notice, complete the attached financial affidavit and return it, along with the required documentation, to the above address. The information you provide will be used to determine your child support obligation based on the Montana Uniform Child Support Guidelines. By completing the financial affidavit and returning it you are not giving up your right to request a hearing. **However, if you want a hearing you still must request one within twenty (20) days of being served with the notice.** If you do not respond to the Notice of Financial Responsibility, the CSED will enter a default order against you in the amount of the notice and will begin enforcing your child support obligation.

QUESTIONS ABOUT THE NOTICES

If you have questions about your medical support options, the financial affidavit form, or the process of establishing a child support or medical support obligation, contact the CSED immediately at the above address.

STATE OF MONTANA
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION
(406) 442-7278

October 25, 1996

Case Number: _____

Mother: _____

Obligee (if different from Mother): _____

ABOUT THE NOTICES IN THIS PACKAGE

PLEASE TAKE NOTE: You have been served with three separate legal actions:

- (1) Notice of Parental Responsibility
- (2) Notice of Financial Responsibility
- (3) Notice of Medical Responsibility.

You must respond to each notice separately. If you respond to only one notice, we cannot assume you are also responding to the others. Please read each notice carefully. You have 20 days to respond appropriately to each notice; these three 20-day periods run at the same time.

NOTICE OF PARENTAL RESPONSIBILITY

The Child Support Enforcement Division (CSED) is taking legal action to establish the paternity of the child named in the Notice of Parental Responsibility; you are alleged to be the natural father of the child. Your options in this action are explained in the notice. If you do not respond promptly and according to these options, the CSED can issue an order finally declaring you to be the father of the child or compelling you to submit to genetic testing. Be aware, you must respond specifically to the paternity issue (the Notice of Parental Responsibility) regardless of what you do in response to the child support issue (the Notice of Financial Responsibility) or the medical support issue (the Notice of Medical Responsibility).

NOTICE OF FINANCIAL RESPONSIBILITY

The Notice of Financial Responsibility begins legal action to establish a child support

obligation for the children named in the notice. This is a separate process from the paternity action (the Notice of Parental Responsibility) and the medical support action (the Notice of Medical Responsibility). Even if you believe you are not the father of one of the children named, you must respond to the child support issue (the Notice of Financial Responsibility) within the time allowed. The CSED will complete the paternity action before determining the child support obligation; if you are found to be the father, the child support obligation will begin on the date listed on the Notice of Financial Responsibility. If you did not respond to the Notice of Financial Responsibility, the amount will be determined by default (see below). If you are not found to be the father in the paternity action, the CSED will dismiss the child support action.

NOTICE OF MEDICAL RESPONSIBILITY

Along with establishing paternity and an amount for child support, the CSED is taking separate legal action to establish a medical support order for the children named in the Notice of Medical Responsibility. The medical support order will require you to get and keep health insurance for the children and to reimburse the state for any Medicaid payments to the children under certain conditions. Your options in this action are explained in the notice. Even if you believe you are not the father of one of the children named, you must respond to the medical support issue (the Notice of Medical Responsibility) within the time allowed. The CSED will complete the paternity action before determining the medical support obligation; if you are found to be the father, the medical support obligation will begin on the date listed on the Notice of Medical Responsibility. If you did not respond to the Notice of Medical Responsibility, the CSED will enter a default medical support order against you and will commence enforcement of your medical support obligation. If you are not found to be the father in the paternity action, the CSED will dismiss the medical support action.

FURTHER INFORMATION ABOUT THE NOTICE OF FINANCIAL RESPONSIBILITY

The support amount in the Notice of Financial Responsibility is based on the minimum needs of the child as determined by the State of Montana AFDC Program. If you do not agree with the amount in the notice, complete the attached financial affidavit and return it, along with the required documentation, to the above address. The information you provide will be used to determine your child support obligation based on the Montana Uniform Child Support Guidelines. By completing the financial affidavit and returning it you are not giving up your right to request a hearing. **However, if you want a hearing you still must request one within twenty (20) days of being served with the notice.** If you do not respond to the Notice of Financial Responsibility, the CSED will enter a default order against you in the amount of the notice and will begin enforcing your child support obligation.

QUESTIONS ABOUT THE NOTICES

If you have questions about your paternity or support options, the administrative processes described in this letter, or the financial affidavit form, contact the CSED immediately at the above address.

January 14, 1997

GUIDELINES BULLETIN

Average 10-Year Constant Maturity Rate for Calendar Year 1996

The average 10-year U.S. Treasury constant maturity rate for calendar year 1996 is shown below:

6.44 %

This rate is to be used for Guidelines calculations under ARM 46.30.1514(2), Determination of Income Attributed to Assets. The rate should be entered on line 3, Worksheet A (CS-404.1A). Guidelines worksheets generated on SEARCHS will reflect the new rate. It is effective through December 31, 1997.

To view the update on SEARCHS, go to TMN (Table Maintenance Menu) and select or type in TBR. The current rate and the rates for past years will be displayed.

Instructions for Manual Maintenance

Place this Bulletin at the beginning of section 404 (Administrative Determination of Support Amount). Remove and destroy the January 15, 1996 Guidelines Bulletin.

Correct the date listed for the Bulletin in the Table of Contents (page 4).

Department of Public Health and
Human Services

CHILD SUPPORT ENFORCEMENT

section:

ADMINISTRATIVE DETERMINATION
OF SUPPORT AMOUNT

subject:

Child Support Guidelines

SUPERSEDES: CS 404.1, "Child Support Guidelines," December 5, 1994
REFERENCES: MCA 40-5-209; ARM 37.62.101 through 148.

POLICY: Purpose and Use. The CSED is required by law to establish guidelines for determining child support obligations in Montana, and to review and update the guidelines every four years. The Montana Child Support Guidelines were adopted by the CSED in 1998 in the form of administrative rule. They are used by district courts, the CSED, attorneys, and parents to determine appropriate child support amounts for orders established or modified in Montana. This section contains policies and procedures for implementing the Guidelines through administrative process.

Philosophy. The Guidelines are based on the principle that the amount of support should reflect the income of both parents and the needs of the child. This principle is reflected in the following basic components of the Guidelines calculation:

TOTAL INCOME	-	DEDUCTIONS	=	INCOME AFTER DEDUCTIONS
INCOME AFTER DEDUCTIONS	-	PERSONAL ALLOWANCE	=	INCOME AVAILABLE FOR CHILD SUPPORT
CHILDREN'S PRIMARY ALLOWANCE	+	CHILDREN'S SUPPLEMENTAL NEEDS	=	CHILDREN'S TOTAL NEEDS
INCOME AVAILABLE FOR CHILD SUPPORT	-	CHILDREN'S TOTAL NEEDS	=	INCOME AVAILABLE FOR SOLA*
INCOME AVAILABLE FOR SOLA	-	LONG-DISTANCE PARENTING ADJUSTMENT	=	ADJUSTED INCOME AVAILABLE FOR SOLA
ADJUSTED INCOME AVAILABLE FOR SOLA	x	SOLA PERCENTAGE**	=	STANDARD OF LIVING ADJUSTMENT
CHILDREN'S TOTAL NEEDS	+	STANDARD OF LIVING ADJUSTMENT	=	SUPPORT AMOUNT

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- * Standard of living adjustment
- ** Percentage depends on number of children

Rebuttable presumption. A support amount determined according to the Guidelines is presumed to be adequate and reasonable. The same presumption applies to each component amount used in the calculation of the final support amount. This presumption may be rebutted by evidence that the application of the Guidelines would be unjust or inappropriate. In addition, rebuttal of the final support amount (direct adjustment to the "bottom line") requires evidence that a different amount would be in the best interests of the child. As a matter of policy the CSED presumes that the best interests of the child are served when the support amount maximizes both the financial benefit to the child and the affordability/enforceability of the support payment.

Variances. An adjustment resulting from a rebutted presumption may or may not constitute a "variance" from the Guidelines. For purposes of this section a variance is any adjustment made directly to the final support amount, or to the adjusted income available for SOLA (see the components table on the previous page). When a variance applies, the support order must contain a specific finding explaining why the Guidelines amount (without the variance) would be unjust or inappropriate in the particular case. (Note that an adjustment to any of the following specific component amounts does **not** constitute a variance for purposes of the support order: income, deductions, personal allowance, children's primary allowance, children's supplemental needs, and long-distance parenting adjustment.)

Definitions. The following definitions taken from ARM 37.62.103 apply to terms used in the Guidelines:

Legal dependent means natural born and adopted minor children, spouses, special needs adult children, household members covered by a conservatorship or guardianship, and parent's parents living in the household who are claimed on tax returns as legal dependents.

Other child means a child whom a parent is legally obligated to support but who is not the subject of the child support calculation. A step-child is not

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considered an other child.

Pre-existing support order means an order entered by a tribunal of competent jurisdiction prior to the calculation or recalculation of support.

SOLA means standard of living adjustment.

Standard of living includes the necessities, comforts and luxuries enjoyed by either parent, the child or both parents and the child, which are needed to maintain them in customary or proper community status or circumstances.

Subsequent child means an "other" child who is either born after, or named in an order entered after, entry of the order being modified.

PROCEDURES:

RESPONSIBILITY	ACTION
Caseworker	1. <u>Initiating the Calculation.</u> Upon identifying a biological unit (children sharing the same mother and father) for whom one or more Guidelines determinations are needed, identifies the following groups and prepares one calculation for each group: - All of the children of the biological unit who do not reside with a third-party custodian. (Note that in this situation there may be one or two SEARCHS cases.) - All of the children of the biological unit who reside with the same third-party custodian, and for whom the CSED has a case against the mother. - All of the children of the biological unit who reside with the same third-party custodian, and for whom the CSED has a case against the father.

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EXAMPLE: In the following scenario four calculations are required--one for child A and child B together; one for child C, and two for child D:

	Resides with	CSED Case(s)	Calculations Required
Child A	Mother	Case against father	One two-parent calculation
Child B	Father	Case against mother	
Child C	Grandma*	Case against father	One one-parent calculation
Child D	Smiths (foster family)	Case against father	One one-parent calculation
		Case against mother	One one-parent calculation

* In this example the grandmother does not receive public assistance and has opened a case against the father only.

Proceeds to gather financial information from the parents according to the procedures in section CS 401.3 (establishment) or CS 408.3 or 408.5 (modification).

Note that the CSED cannot perform a Guidelines calculation for a non-CSED case. In cases where a Montana district court orders a parent to pay support in an amount to be determined by the CSED, the CSED requires that one of the parents apply for CSED services.

2. Performing the Calculation. Converts all financial information to annual amounts. Prepares Worksheets A through E (forms CS-404.1A through 1E) using the INSTRUCTIONS in this section **and** the instructions printed on the worksheets. Enters the support amount in the Notice and Order Concerning Support,

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Modification Consent Order, or other modification decision and order issued in the modification process, as applicable.

Follows procedures in steps 3 through 9 below for implementing the Guidelines calculation within the establishment and modification processes.

3. Verifying Information. Verifies amounts included in the calculation as follows:

- a. Verifies a parent's actual income from the documents submitted by the parent (pay stubs, employer statements, income tax returns, profit and loss statements), or from SEARCHS information or direct contact with the payor. Where the facts indicate there may be additional unreported income, researches likely sources to the extent practical, and includes any additional amounts discovered. Does not include income as "actual" that cannot be documented in some way. (Where additional income is suggested by indirect factors such as lifestyle, but no documentation is available through ordinary channels, consults CSED staff attorney to identify other possible sources of documentation in the particular case.)
- b. Verifies the amounts of allowed deductions and expenses using payroll documents, court or administrative orders, other written proof of payment or amount, direct contact with a payor or insurance plan, or any combination of these. Expenses described as "actual" (see INSTRUCTIONS) must be supported by written proof of payment. Also, for each deduction or other expense verifies that the deduction or expense is allowable under the Guidelines, based on information provided by the parent or obtained from other sources.
- c. Presumes amounts taken from a parent's tax return to be correct unless there is evidence of possible error (failure to report a significant amount of applicable income; deductions for non-allowable expenses; or significant miscalculation of taxes or

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credits). If so, determines any corrections and substitutes the corrected amounts in the Guidelines calculation. Caseworker discretion applies in determining the extent to which tax return amounts should be examined or recalculated for Guidelines purposes.

4. Documenting Decisions. Documents reasons and considerations for allowing/not allowing expenses, and for including/not including income. Documents any subcalculations for amounts entered, if applicable (for example, averaging or projecting income for a twelve-month period; converting amounts to annual levels; determination of tax credits). For imputed income also documents data source. References documents from step 3 above that are retained in the physical file. Enters all "documenting" information called for in this step in a case note, the COMMENTS section of Worksheet A, or the physical file, as appropriate.

5. Cases Involving Third-Party Custodians. In cases where the obligee for the child is a third-party custodian, performs one calculation for each parent against whom the CSED has a case. In each "one-parent" calculation enters the income and expenses of the other parent as \$0. Enters the following statement or its equivalent in the COMMENTS section of Worksheet A:

"This calculation determines the [mother's] [father's] obligation for the children in this third-party case; it does not determine the other parent's obligation for these children, nor does it relieve the other parent of that obligation. The amount of the other parent's obligation is determined separately, in a calculation performed in a different case."

After the support obligation is established, if the child spends more than 110 days per year with the obligor parent, adjusts the parent's current support obligation on SEARCHS for any months significantly affected by the extra visitation.

6. Modifications Involving Subsequent Children. In a modification proceeding where either parent claims a deduction from income for a "subsequent" child,

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applies the following RULE:

RULE 22 MODIFICATIONS OF CHILD SUPPORT ORDERS....

(3) In a proceeding to modify an existing order, the support obligation of each parent is calculated considering all children, prior and subsequent, of each parent. Then the support obligation of each parent is calculated considering no subsequent children of either parent.

(a) If both calculations result in a decrease in the transfer payment due and payable from the obligated parent, the lesser of the decreases in the transfer payment is granted.

(b) If both calculations result in an increase in the transfer payment due and payable from the obligated parent, the lesser of the increases in the transfer payment is granted.

(c) If the first calculation results in a decrease and the second calculation results in an increase, or if the reverse is true, no modification is granted.

7. Social Security Payments for the Benefit of the Child. In a case where a child receives social security benefits as the result of a parent's disability, does NOT consider the amount of the child's benefit in the Guidelines calculation.

(Once a support order is entered for the child and the case is in enforcement status, the CSED will credit the disabled obligor parent with full or partial payment of support for each month benefits accrue to the child. See ARM 37.62.144, Social Security Benefits, for details.)

8. Required Language in Support Orders. Adjusts the language in the support order as applicable when any of the following situations occurs:

- (1) A presumption is rebutted in such a way as to create a variance (see POLICY). The following RULE applies:

RULE 2 REBUTTABLE PRESUMPTION.... (2) At the

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request of one of the parties and upon consideration of the factors set out in the guidelines and in 40-4-204, 40-4-208 and 40-6-116, MCA, the guidelines may be rebutted and a variance from the guidelines amount may be granted. Any consideration of a variance from the guidelines must take into account the best interests of the child.

(3) The support order may vary from the guidelines in a particular case only if the decree, separation order or support order contains a specific written finding showing justification that application of the guidelines would be unjust or inappropriate, based upon evidence sufficient to rebut the presumption.

(4) Findings that rebut and vary the guidelines must include a statement of the amount of support that would have been ordered under the guidelines without the variance.

[Optional:] Attaches to the support order a separate worksheet containing the calculation without the variance.

If the variance is based on circumstances that may change, the following RULE also applies:

RULE 2 REBUTTABLE PRESUMPTION.... (6) A support order granting a variance, based upon the existence of a condition or the performance of an act, must provide that, upon termination of the circumstances which justify the variance, the support immediately reverts to the amount which would have been ordered under the guidelines without the variance.

CAUTION: Whenever possible the reverter language in the support order should be written so as to create an incentive for one or the other of the parents to inform the CSER when the circumstances justifying the variance

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have terminated (or, where appropriate, to provide proof to the CSED that the circumstances have not terminated).

If the variance is based on a stipulation or agreement between the parents, the support order must reference or attach the written stipulation/agreement. (Requirements for an acceptable stipulation/agreement are given in the INSTRUCTIONS FOR WORKSHEET A, COMMENTS line, later in this section.)

- (2) A change in circumstances is anticipated within the next eighteen (18) months (regardless of whether a variance is involved) that will significantly affect the Guidelines calculation. The following RULE applies:

RULE 19 ANTICIPATED CHANGES (1) When child support is determined, if any material change is anticipated within 18 months, separate child support calculations should be completed.

(2) In the initial calculation, present circumstances should be included. In the subsequent calculation(s), appropriate anticipated changes should be calculated. The child support order should provide that the amount(s) from the subsequent calculations will take effect the month following the anticipated changes.

[Optional:] Attaches to the support order a separate worksheet containing the calculation without the variance.

- (3) The monthly per-child support amount is not the same, or is not owed by the same parent, for all the children of the calculation. (Per-child monthly amounts are identified on the Summary and Analysis sheet at the end of Worksheet A.) In this situation the support order language should be adjusted as follows (or equivalently):

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"The Obligor shall pay child support for the above-named children in the total amount of \$_____ per month. This amount is the total monthly transfer payment for the obligations listed on the attached Summary and Analysis, Worksheet A; it cannot be reduced to equal per-child amounts."

In special cases or for more specific language the caseworker should consult the CSED staff attorney.

9. Payment in Equal Monthly Installments. Upon entry of a support order establishing the support payment amount identified in Worksheet A, enforces the case according to the following RULE:

RULE 1 AUTHORITY, POLICY AND PURPOSE....(3) *These guidelines are structured to determine child support on an annual basis. Payment will be made in equal monthly installments.*

The CSED believes it is in the best interests of the child to receive support on a regular monthly basis, since most of the child's financial needs continue regardless of the cash flow or visitation of the obligor. In cases where the obligor's visitation exceeds the normal amount, there is an appropriate credit already included in the Guidelines calculation. Accounting adjustments or support abatements to accommodate an obligor's fluctuating payments or extended visitation are prohibited, except in very unusual situations, or as allowed in step 5 for third-party cases.

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INSTRUCTIONS FOR COMPLETING WORKSHEET A

Line Description/Instructions

- 1 Income. Include in lines 1a through 1d, and 1f through 1h, all economic benefits actually received by the parent, **except** (1) expense offsets, (2) loan proceeds, (3) means-tested income, (4) social security benefits received on behalf of a child of the calculation, (5) income attributable to another person, and (6) overtime or second-job income earned by a parent with a "second" family. Further exceptions **may** be allowed for amounts received from one-time gifts, inheritances, winnings, lump-sum retirement distributions, and similar events; determine these exceptions on a case-by-case basis. Determine exceptions (1), (3), and (6) respectively according to the RULES below.

RULE 4 DETERMINATION OF INCOME FOR CHILD SUPPORT.... (2)
Actual income includes: (e) allowances for expenses, flat rate payments or per diem received, except as offset by actual expenses. Actual expenses may be considered only to the extent a party can produce receipts or other acceptable documentation. Reimbursements of actual employment expenses may not be considered income for purposes of these rules.

RULE 4 DETERMINATION OF INCOME FOR CHILD SUPPORT.... (3)
Income for child support does not include benefits received from means-tested veteran's benefits and means-tested public assistance programs including but not limited to the former aid to families with dependent children (AFDC), cash assistance programs funded under the federal temporary assistance to needy families (TANF) block grant, supplemental security income (SSI), food stamps, general assistance and child support payments received from other sources.

RULE 4 DETERMINATION OF INCOME FOR CHILD SUPPORT....
(5).... If a person with a subsequent family has income from overtime or a second job, that income is presumed to be for the use of the subsequent family, and is not included in income for child support for the purposes of

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determining support for a prior family.

- 1a Wages, salaries, commissions. Also include tips, bonuses, severance pay, draws or advances against earnings, and any other cash income directly related to work the parent performs for an employer. This type of income is subject to income tax and social security tax.

If necessary, income should be averaged or projected according to the following RULE to determine the amount most likely to apply to the next twelve months:

RULE 5 INCOME VERIFICATION/DETERMINING ANNUAL INCOME

.... (3) To the extent possible, income for child support and expenses should be annualized to avoid the possibility of skewed application of the guidelines based on temporary or seasonal conditions. Income and expenses may be annualized using one of the two following methods:

(a) seasonal employment or fluctuating income may be averaged over a period sufficient to accurately reflect the parent's earning ability; or

(b) current income or expenses may be projected when a recent increase or decrease in income is expected to continue for the foreseeable future. For example, when a student graduates and obtains permanent employment, income should be projected at the new wage.

- 1b Self-employment net earnings. Calculate the self-employment income according to the following RULE:

RULE 4 DETERMINATION OF INCOME FOR CHILD SUPPORT.... (2)

Actual income includes: (b) gross receipts minus reasonable ordinary and necessary expenses required for the production of income for those parents who receive income or benefits as the result of an ownership interest in a business or who are self-employed. Straight line depreciation for vehicles, machinery and other tangible assets may be deducted if the asset is required for the production of income. The party requesting such depreciation shall provide sufficient information to calculate the value and expected life of the asset. Internal revenue service rules apply to determine

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expected life of assets. Business expenses do not include deductions relating to personal expenses, or expenses not required for the production of income.

Self-employment income is generally determined from information provided on the following IRS forms: Form 1040, U.S. Individual Income Tax Return; Schedule C (Form 1040), Profit or Loss from Business (Sole Proprietorship); Schedule E (Form 1040), Supplemental Income and Loss; Form 4562, Depreciation and Amortization; Form 1065, U.S. Partnership Return of Income; Form 1120, U.S. Corporation Income Tax Return; Form 1120S, U.S. Income Tax Return for an S Corporation; and the schedules and statements accompanying Forms 1065, 1120, and 1120S.

Any arrangements made by the parent, regardless of legality, that have the effect of reducing income or increasing business expenses may be disallowed for Guidelines calculation purposes if the arrangements were made primarily to reduce the amount of taxes or child support payable. Such arrangements may include, for example, attributing a portion of the business income to the current spouse, or setting up a mandatory retirement plan for members of a partnership, if there is evidence of intention to evade. (Consult the CSED staff attorney to evaluate evidence in these situations.)

Self-employment income is subject to regular income tax, and to the self-employment social security tax calculated on IRS Schedule SE.

If expenses exceed receipts, do not enter the negative amount in this line; see the instructions at line 2 for determining and entering allowed business losses.

Taxable self-employment income identified in the course of the Guidelines investigation but not reported on the parent's tax return should be listed on line 1h.

- 1c Pensions, social security. "Pension" income includes any periodic distributions from retirement plans before or after retirement; veterans' retirement benefits are included in this line. Social Security income includes benefits based on the earning record or disability of the parent, except for amounts received on behalf of a child of the calculation. Supplemental security income (SSI)

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benefits based on the disability of a child of the calculation are not included in the parent's income. Note that Social Security disability benefits usually are not subject to federal or state income tax.

- 1d Unearned income. Include dividends, interest, trust income, and annuities. Note that interest on out-of-state municipal bonds is not subject to federal income tax.
- 1e Imputed income. Determine imputed income according to the following RULE:

RULE 4 DETERMINATION OF INCOME FOR CHILD SUPPORT....

(6) "Imputed income" means income not actually earned by a parent, but which will be attributed to the parent based on:

- (a) the parent's earning potential if employed full-time;
- (b) the parent's recent work history;
- (c) occupational and professional qualifications;
- (d) prevailing job opportunities in the community and earning levels in the community.

(7) Income should be imputed whenever a parent:

- (a) is unemployed;
- (b) is underemployed;
- (c) fails to produce sufficient proof of income;
- (d) has an unknown employment status; or
- (e) is a full-time student whose education or retraining will result, within a reasonable time, in an economic benefit to the child for whom the support obligation is being determined, unless actual income is greater. If income to a student parent is imputed it should be determined at the parent's earning capacity based on a 40 hour work week for 13 weeks and a 20 hour work week for the remaining 39 weeks of a 12 month period. (This is an annual average of 25 hours per week.

(9) Income should not be imputed if any of the following conditions exist:

- (a) the reasonable costs of child care for dependents in the parent's household would offset in whole or in

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substantial part, that parent's imputed income;
(b) a parent is physically or mentally disabled to the extent that the parent cannot earn income;
(c) unusual emotional and/or physical needs of a legal dependent require the parent's presence in the home.
(d) the parent has made diligent efforts to find and accept suitable work or to return to customary self-employment, to no avail; or
(e) the court or hearing officer makes a finding that other circumstances exist which make the imputation of income inequitable. However, the amount of imputed income shall be decreased only to the extent required to remove such inequity.

1f Earned income credit. In a calculation to **establish** a child support obligation, include the amount shown on the parent's tax return. If the tax return is not available or does not claim the credit, estimate the amount using the earned income credit table found in IRS Publication 596 ("Earned Income Credit") and the following assumptions:

- (1) A qualifying child is one who
 - is a child of the calculation, or is an "other" child for whom an allowance is included in line 2a or 2b, AND
 - is under the age of 18 (or under the age of 24 if a student), AND
 - lives with the parent at least 183 days per year.

If there are more than two qualifying children, use 2.

- (2) "EIC Worksheet" income is the parent's gross income from lines 1a and 1b, and any other earned income from lines 1g and 1h, of (Guidelines) Worksheet A.

The estimate may be revised based on more detailed information provided by the parent using IRS Publication 596.

In a calculation to **modify** a child support obligation, if there are "subsequent children" (see instructions for lines 2a and 2b), two EIC amounts are required: one recognizing the subsequent children, and one not. In this situation the earned income credit from the parent's tax return can be used for only one of the two amounts;

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the other EIC amount must be estimated using a number of qualifying children that either recognizes or does not recognize the subsequent children, whichever method is not used in the tax return.

Enter the number of qualifying children used to determine the amount in this line in Section 2 of the Summary and Analysis page attached to Worksheet A.

If income is being imputed for the parent on line 1e, apply the following RULE:

RULE 4 DETERMINATION OF INCOME FOR CHILD SUPPORT.... (8)
When income is imputed to a parent, federal earned income credit (EIC) should not be added to income and child care expense should not be deducted from income when the effects are offsetting.

For purposes of this RULE only, to determine whether to impute EIC for imputed income, estimate the child care expenses (less the federal dependent care tax credit described in line 2j) that would be incurred if the parent were to work to earn the imputed income, and compare these expenses with the imputed EIC. If there is a very significant difference, the effects are not offsetting, and the EIC should be imputed.

- 1g **Other taxable income.** Include actual income not listed on lines 1a through 1f. Examples are rental income, royalties, alimony or spousal maintenance, unemployment benefits, and allowances and reimbursements exceeding actual expenses (see RULE under line 1 above). Note that unemployment benefits are not subject to state income tax.

Include net capital gains, if there is a history of capital gains in excess of capital losses, indicating the parent derives part of his or her income from ongoing investment activity.

Include earnings, profits, and contract proceeds that are received from activities other than employment, self-employment, business ownership, or one-time transactions.

Include non-cash benefits according to the following RULE:

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RULE 4 DETERMINATION OF INCOME FOR CHILD SUPPORT

(2) Actual income includes: (c) the value of non-cash benefits such as in-kind compensation, personal use of vehicle, housing, payment of personal expenses, food, utilities, etc.

- 1h Other non-taxable income. Include workers' compensation benefits and disability benefits; the latter may include veterans' benefits. Also include student grants and similar income described in the following RULE:

RULE 4 DETERMINATION OF INCOME FOR CHILD SUPPORT

(2) Actual income includes: (d) grants, scholarships, third party contributions and earned income received by parents engaged in a plan of economic self-improvement, including students. Financial subsidies or other payments intended to subsidize the parent's living expenses and not required to be repaid at some later date must be included in income for child support.

- 2 Allowable deductions. Include in lines 2a through 2k all required or necessary deductions from gross income **except** those described in the RULE below:

RULE 7 NON-ALLOWABLE DEDUCTIONS FROM INCOME

(1) Deductions which are not allowable under these rules include:

- (a) payroll deductions for the convenience of the parent, such as credit union payments and savings;
- (b) a net loss in the operation of a business or farm used to offset other income;
- (c) investment losses outside the normal course of business;
- (d) expenses incurred for the support of a spouse capable of self-support;
- (e) payments for satisfaction of judgments against a parent related to the purchase of property for the parent's personal use;
- (f) bankruptcy payments except to the extent that they represent debts for expenses which would otherwise be deductible; or
- (g) a stepchild and associated costs.

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Business operating losses may be deductible (at line 2k) if the business is the principal source of income for the parent. Investment losses may be deductible if the parent's main business is investments.

- 2a Ordered child support (for other children). In a calculation to **establish** a child support obligation, this is the total amount of any pre-existing support orders (court or administrative) against the parent for the parent's "other" children.

In a calculation to **modify** a child support obligation, the amount is the "establishment" amount from the paragraph above (where "pre-existing" means existing at the time of modification), except that if any of the pre-existing support orders was entered after the entry of the support order being modified, two amounts are calculated: one including the "subsequent" support order(s), and one not. (To determine which of the two amounts applies, see Modifications Involving Subsequent Children, PROCEDURES, earlier in this section.)

- 2b Allowance for other children (from Table 2). In a calculation to **establish** a child support obligation, this is the total allowance for all of the parent's "other" children not included in line 2a. The amount allowed for these children is the amount from the "other children" column in Table 2 (one-half the primary child support allowance), where the number of children used in the table equals the number of "other" children not included in line 2a; this number includes children who reside with the parent as well as children who do not.

In a calculation to **modify** a child support obligation, the amount is the "establishment" amount from the paragraph above, except that if any of the children was born after entry of the support order being modified, two amounts are calculated: one including the allowance for the "subsequent" child(ren), and one not. (To determine which of the two amounts applies, see Modifications Involving Subsequent Children, PROCEDURES, earlier in this section.)

- 2e,f Federal income taxes, state income taxes. The following RULE applies:

RULE 6 ALLOWABLE DEDUCTIONS FROM INCOME (1) Allowable

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deductions from income include: (d) the actual income tax liability based on tax returns. If no other information is available, use the tax tables which show the amount of withholding for a single person with one exemption;

If tax returns are available but the parent has not claimed the federal child tax credit, estimate the credit as in step 4b below, and enter on line 2e the parent's federal tax liability less the credit.

If taxes must be determined according to the tax tables, use the following steps:

1. Find the taxable income by adding all amounts on lines 1a, 1b, 1c, 1d, and 1g, and subtracting any nontaxable components (see line instructions).
2. Determine the filing status (married or single) and number of exemptions to which the parent is actually entitled. (Do not use the defaults, "single status" and "one exemption," unless there is no other information to apply.)
3. For the **state income tax**, find the amount from the state withholding table using the income, status, and exemptions in steps 1 and 2 above. Enter the amount in line 2f.
4. For the **federal income tax**, follow steps 4a through 4c below:
 - a. Find the amount from the federal withholding table using the income, status, and exemptions in steps 1 and 2 above.
 - b. Estimate the federal child tax credit to which the parent is entitled, based on available information, using the Child Tax Credit Worksheet published by the IRS. A "qualifying child" is one who
 - is under the age of 17 at the end of the tax year; AND
 - is the parent's son, daughter, stepchild, grandchild, or foster child; AND
 - is listed as a dependent on the parent's tax return.

Absent more detailed or accurate information,

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the parent's "modified AGI" is the gross income from line 1i of Worksheet A.

- c. Subtract the child tax credit (step b) from the federal tax amount (step a). Enter the result on line 2e.

In Section 2 of the Summary and Analysis page attached to Worksheet A, enter the filing status, number of exemptions, and number of children for child tax credit used in steps 1 through 4 above.

- 2g Social security (FICA plus Medicare). This is the actual social security tax paid on income in lines 1a and 1b, from the parent's W-2 form and tax return, respectively. If documented amounts are not available, estimate the social security tax on income from line 1a at 7.65% (.0765) of income; estimate the social security tax on income from line 1b using IRS schedule SE.

Income listed on lines 1c through 1h is not subject to social security tax.

- 2h Retirement contributions/deferred compensation. Include only actual, mandatory contributions toward IRS-approved retirement and deferred compensation plans.

- 2i Required employment expense. The following RULE applies:

RULE 6 ALLOWABLE DEDUCTIONS FROM INCOME (1) Allowable deductions from income include: (f) actual unreimbursed expenses incurred as a condition of employment such as uniforms, tools, safety equipment, union dues, license fees, business use of personal vehicle and other occupational and business expenses;

- 2j Dependent care expense for persons other than children in this calculation, less dependent care tax credit. This amount is described by the following RULE:

RULE 6 ALLOWABLE DEDUCTIONS FROM INCOME (1) Allowable deductions from income include: (h) one-half reasonable expenses for items such as child care or in-home nursing care for the parent's legal dependents other than those for whom support is being determined, which are actually incurred and which are necessary to

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allow the parent to work, less federal tax credits. Do not deduct imputed child care expenses when imputing income;

For the federal dependent care tax credit use the amount claimed on the parent's tax return. If a tax return is not available or does not claim the credit, find the applicable tax credit from IRS Form 2441, Child and Dependent Care Expenses, using the best information available. "Earned income" may be estimated using the parent's gross income from lines 1a and 1b, and any other earned income from lines 1g and 1h, of (Guidelines) Worksheet A. A "qualifying person" is one who

- is (or would be) listed as a dependent on the parent's tax return (or is not listed on the return only because the parent signed an IRS form allowing the other parent to claim the child for tax purposes), AND
- is under the age of 13 at the end of the tax year, OR is physically or mentally unable to care for himself/herself.

The credit is limited to the amount calculated on the first \$2400 of actual dependent care expenses for one child, and the first \$4800 for two or more children. For Guidelines purposes the credit subtracted in this line may not exceed the parent's tax liability in line 2e.

Enter the number of dependents used to determine the tax credit for this line in Section 2 of the Summary and Analysis page attached to Worksheet A.

- 2k Other. Include extraordinary medical expenses; court-ordered payments other than child, spousal, or medical support; and student expenses, according to the following RULE:

RULE 6 ALLOWABLE DEDUCTIONS FROM INCOME (1) Allowable deductions from income include: (I) extraordinary medical expenses incurred by a parent to maintain that parent's health or earning capacity which are not reimbursed by insurance, employer, or other entity; (j) court ordered payments except as excluded under ARM 37.62.111 (see line 2); and (k) cost of tuition, books and mandatory student fees for a parent who is a full-time student as anticipated

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under ARM 37.62.106(7)(e) (see line 1e).

Student expenses described in the above RULE are deductible only in the amount by which they exceed any student loans. There is no deduction for repayment of student loans.

Also include any business losses deductible under the instructions in line 2.

- 4 Personal allowance for each parent. Use the amount from the table, unless the parent lives in Alaska or Hawaii; then use the federal poverty guideline amount for that state multiplied by 1.3.

- 6 Minimum contribution. The parent qualifies for the minimum contribution (instead of a proportional share of the children's needs and standard of living), if either of the following applies:

- (1) Income After Deductions (line 3)
LESS Personal Allowance (line 4) $\leq$ \$0.

In this case the minimum contribution is a percentage of Income After Deductions from Worksheet C.

- (2) Income After Deductions (line 3)
LESS Personal Allowance (line 4) $\leq$ 12% of Income
After Deductions

In this case the minimum contribution is 12% of Income After Deductions.

The minimum contribution is not the same as the final child support obligation, and the calculation does not end with the determination that the parent qualifies. The minimum contribution amount is used at two later points in the calculation to determine (at lines 7-9) the parental share for purposes of medical support, and (at lines 22-24) the final child support obligation after any payment of expenses for the children's supplemental needs.

- 12 Supplement to primary allowance. These amounts represent the additional needs of the children in certain specified areas; they are limited to amounts actually paid by either of the parents or the custodian. Although the

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amounts entered in lines 12a through 12d are aggregated for purposes of determining total need, it is also necessary to identify the individual amounts paid by each parent for each child. These amounts are used later in the calculation (line 23, and Worksheet B, part 1, lines 3, 9, and 13). For documentation purposes, further breakdown by type of expense may also be required.

- 12a Child day care costs less dependent care tax credit. This amount is described in the following RULE:

RULE 12 SUPPLEMENTS TO PRIMARY CHILD SUPPORT ALLOWANCE

(1) The primary child support allowance is supplemented by: (a) reasonable child care costs incurred by a parent for children of the calculation as a prerequisite to employment. The child care expense is reduced by the federal dependent care tax credit;

Determine the federal dependent care tax credit using the instructions for line 2j (Worksheet A); enter the number of children used to calculate the credit in Section 2 of the Summary and Analysis page attached to Worksheet A.

- 12b Child health insurance premium. This amount is limited to the amount the parent is **actually paying** for coverage of the children of the calculation. Proof of payment can be either (1) proof of current coverage or (2) verification from the insurance carrier that the parent has paid a premium with the intent of enrolling the children. The cost of "prerequisite" coverage (coverage the parent is required to purchase before or with any coverage for children of this calculation) is not included in this amount.

If the cost of children-only coverage is not identified separately by the insurance plan, derive the amount by subtracting the cost of a parent-only package from the cost of the parent-child package (or use some other reasonable method). Then divide the children-only cost by the number of children covered to determine the specific cost for each child, and multiply by the number of children of the calculation who are covered.

- 12c Child extraordinary medical expenses. Include only unreimbursed expenses. This amount is not limited to costs for catastrophic accidents or illnesses, but may include ongoing prescriptions or treatments if they

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represent significant expenses beyond the normal costs of living. For large medical debts the amount entered is one year's payments, not the entire amount due.

12d Other. This amount includes all other special needs of the children as determined by the circumstances of the case. Generally, special needs are limited to things such as special schooling, care, equipment, or transportation that are beyond the ordinary needs of most children.

18a Long distance parenting adjustment. Enter the amount from Worksheet D.

18b Other adjustments to income available for SOLA. This line is for expenses that

- relate to special conditions in the case;
- are not appropriate earlier in the calculation (because they do not relate to a particular line, or because they would have an unfair effect on parental shares (line 9) or on the extent to which the children's needs are met (line 13 versus line 7), based on the facts of the case);
- correspond dollar-for-dollar with actual expenses incurred by the parent, and
- if not included, would result in a determination that is unjust or inappropriate in the particular case.

Amounts entered in this line are considered variances from the Guidelines for purposes of the support order (see Variances, POLICY, this section).

Enter the amount of the actual expense or the net amount available for SOLA (line 17 less line 18a), whichever is less. Describe the special conditions and the basis for allowing the expense in the COMMENTS line at the end of Worksheet A.

23 Credit for payment of expenses. For each parent break out the amount the parent actually pays toward the total expenses listed on line 12. (Note that in a third-party case the obligor parent's credit on this line may be less than the total on line 12, if the custodian pays some of the supplemental expenses.)

25 Combination parenting determination. To complete this portion of the worksheet first determine whether

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"combination parenting" applies.

In a two-parent case (both parents are included in the calculation) combination parenting applies in either of the following two situations:

- (1) Any of the children spend more than 110 days with one parent **and** more than 110 days with the other parent.
- (2) One child of the calculation spends 110 days or less with one parent and another child of the calculation spends 110 days or less with the other parent.

In determining days spent with each parent, the following RULE applies:

RULE 18 PAYMENT OF MONTHLY SUPPORT AMOUNT IN COMBINATION PARENTING ARRANGEMENTS.... (3) *For the purposes of this rule, a day is when a child spends the majority of a 24 hour calendar day with or under the control of a parent. This assumes that there is a correlation between time spent and resources expended for the care of the child. Reference can be made to the residential schedule in the parenting plan ordered under 40-4-234, MCA.*

If combination parenting applies, complete only the child's name and columns A and B in line 25; then go to Worksheet B to determine the amounts in columns C and D. Return to line 25 to enter the amounts for each child, and the totals for columns C and D; proceed to line 26.

If combination parenting does not apply in a two-parent case, complete all of the columns in line 25 (for columns C and D follow the instructions printed on the worksheet after "YES," then enter the total in line 25i).

In a one-parent case (only one parent is considered in the calculation because there is a third-party custodian) "combination parenting" does not apply. Complete only the child's name and column C or D (depending on which parent is the obligor in this calculation) for each child, leaving columns A and B blank. To determine the amount in column C or D for each child, divide the obligation on line 24 by the number of children on line 10. Enter a total for the appropriate column on line 25i.

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- 26 Annual transfer payment. If combination parenting (Worksheet B) does not apply, the amount in this line should equal the amount in line 24 for the noncustodial parent. If combination parenting does apply, the amount will be the difference between the two parents' **adjusted** obligations (for combination parenting), not the difference between the line 24 amounts.

NOTE: If in a combination parenting situation this line shows a transfer amount payable by the CSED's obligee to the CSED's obligor (the obligee's total obligation in line 25i is greater than the obligor's), the guidelines determination is discontinued: the CSED does not establish an order against a parent who has applied for services as the custodian of the children, or in favor of a parent who has applied for services as the parent owing support.

- 27 Total monthly transfer payment. This is the monthly payment for all the children. The support amount for each child is determined in the Summary and Analysis page attached to Worksheet A.

COMMENTS. This "line" is used to list the following information for each parent:

- (1) **A summary of how income was determined within the Guidelines.** Identify the different types of actual income included in the parent's total income on line 1i (for example, wages from full-time employment, income from rental property, earned income credit, disability benefits, etc.). If applicable explain why and how income was imputed, averaged, or projected. Identify any income the parent actually received that was not included in the calculation, and explain why. For self-employment income describe the parent's gross receipts, and the business expenses allowed; also indicate whether any income or expenses claimed on the parent's tax return were increased or disallowed for Guidelines purposes, and give the basis for the determination.

Also describe any deductions from income other than standard income taxes, social security, and mandatory employer deductions. Give the data or assumptions used to determine any tax credits.

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- (2) **Any supplements to the children's primary needs other than day care and health insurance.** Describe any supplements listed on lines 12c and 12d; if necessary, explain why the supplements were allowed.
- (3) **Any rebutted presumptions.** For any amount entered in lines 1 through 18a that differs from the prescribed Guidelines amount, explain how the presumption is rebutted in this situation. Most of these deviations will be identified in items (1) and (2) above. (See Rebuttable Presumption, POLICY, this section.)
- (4) **Any variances from the Guidelines.** If the calculation includes an amount entered in line 18b, or if the CSED intends to order the obligor to pay an amount different from the final support amount (transfer payment) shown on line 27, explain why a variance from the Guidelines is required; describe the adjustment to the income available for SOLA or to the "bottom line," and state how the adjustment was derived. (See Variances, POLICY, this section.)

Enter in this (COMMENTS) line the transfer payment that would have applied without the variance. If the variance occurred at line 18b, it will be necessary to perform a second calculation to determine this amount.

Variances may be granted at the "bottom line" (final support amount) in cases where an entry in line 18b is not appropriate (see instructions for line 18b).

CAUTION: An adjustment to the bottom line may (depending on the size of the adjustment) reduce the final support amount to a point where the children's primary and supplemental needs are not met. In these situations the effect of the adjustment on the children's needs must be taken into account in determining whether the variance is in the best overall interests of the child.

Situations appropriate to bottom-line variances may include the following (subject to the above CAUTION):

- > The transfer amount is reduced in consideration of a parent's overall financial condition (extreme situation), where the amount of the reduction does not correspond to a specific expense amount.

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- > A variance for the amount of a specific expense is granted, but the total amount cannot be absorbed at line 18b.
- > The parties agree on an amount that is different from the calculated transfer amount, after being informed of the calculated amount.

If a stipulation/agreement is proposed, the following RULE also applies:

RULE 2 REBUTTABLE PRESUMPTION.... (5) Child support may vary from the guidelines based on a stipulation or agreement of the parties only if the stipulation or agreement meets the following criteria:

- (a) it is in writing executed by the parties or is entered by a court or administrative proceeding;
- (b) the parties have signed the stipulation or agreement free of coercion;
- (c) it contains specific justification as to why application of the guidelines is unjust or inappropriate; and
- (d) it contains a statement of the amount of support that would have been appropriate under the guidelines without the variance.

- (5) **Any significant change in circumstances (affecting the calculation) that is anticipated within the next 18 months.** Describe the anticipated change, and calculate and list the amount that will be payable when and if the change occurs. (Note that both the current and the future amount may be based on standard calculations, or may include rebutted presumptions or variances.) Anticipated changes may include, for example, a change in earning ability when the parent completes a degree program; a change in the personal allowance when the parent is transferred to Alaska; or a change in day care expenses when a child starts school.
- (6) **If applicable, a brief statement that the case involves a third-party (non-parent) custodian.** Also enter in this (COMMENTS) line the required disclaimer regarding the other parent's obligation (see Cases Involving Third-

section: ADMINISTRATIVE
DETERMINATION OF
SUPPORT AMOUNT

subject: Child Support
Guidelines

Party Custodians, PROCEDURES, this section).

- (7) **Any other special circumstances of the case.** List any non-standard information not included in (1) through (6) above that was considered in determining the support amount.

INSTRUCTIONS FOR COMPLETING WORKSHEET D

Line Description/Instructions

- 1 Annual mileage driven. Long-distance parenting is defined by the following RULE:

RULE 15 LONG DISTANCE PARENTING ADJUSTMENT (1) Long distance parenting is any travel by a parent or child to attain the goals of the parenting plan. A long distance parenting adjustment is allowed when travel by a parent or child exceeds 2,000 miles in a calendar year.

The "parenting plan" is a plan incorporated in the divorce decree that contains a residential schedule specifying the periods of time the child will spend with each parent, including holidays, vacations, etc. The requirement for a parenting plan was adopted by the Legislature in 1997; for divorce decrees entered before the requirement was in effect, travel for long distance parenting is estimated based on recent visitation and custody experience, adjusted to reflect any changes anticipated for the coming twelve months.

Mileage to "exercise long-distance parenting" means mileage incurred by the parent to transport the child to or from the other parent or the custodian according to the child's residential schedule.

- 4 Annual transportation cost other than mileage. Non-automobile transportation must be related to the child's residential schedule found in the parenting plan, or based on recent visitation and custody experience if there is no parenting plan. This amount may include costs incurred to comply with the regulations of the carrier with respect to children traveling alone.

MONTANA CHILD SUPPORT GUIDELINES Worksheet A

Worksheets included in this calculation:

A ☐B ☐

Cause/Case Number _____

Mother's name _____

Father's name _____

Children for whom this calculation is made:

Name	Date of Birth
_____	_____
_____	_____
_____	_____
_____	_____

Name	Date of Birth
_____	_____
_____	_____
_____	_____
_____	_____

ALL AMOUNTS ARE ANNUAL

MOTHER

FATHER

1. Income		
a. wages, salaries, commissions	\$ _____	\$ _____
b. self-employment net earnings	_____	_____
c. pensions, social security	_____	_____
d. unearned income	_____	_____
e. imputed income	_____	_____
f. earned income credit	_____	_____
g. other taxable income	_____	_____
h. other non-taxable income	_____	_____
i. TOTAL INCOME (add lines 1a through 1h)	_____	_____
2. Allowable deductions		
a. ordered child support (for other children)	_____	_____
b. allowance for other children (from Table 2)	_____	_____
c. ordered alimony/spousal support	_____	_____
d. ordered health insurance premium (for other children)	_____	_____
e. federal income taxes	_____	_____
f. state income taxes	_____	_____
g. social security (FICA plus Medicare)	_____	_____
h. mandatory retirement contributions	_____	_____
i. required employment expense	_____	_____
j. dependent care expense for other children (not in this calculation), less dependent care tax credit	_____	_____
k. other _____	_____	_____
l. TOTAL ALLOWABLE DEDUCTIONS (add lines 2a through 2k)	_____	_____
3. INCOME AFTER DEDUCTIONS (line 1i minus line 2l)	\$ _____	\$ _____

	MOTHER	FATHER
3a. Enter amount from line 3 for each parent	\$ _____	\$ _____
4. Personal allowance for each parent (from Table 1)	_____	_____
5. Income available for child support (line 3a minus line 4; if less than zero, enter zero)	_____	_____
6. If line 5 is zero, enter the minimum contribution (from Worksheet C). If line 5 is greater than zero, multiply line 3a by .12 (12%) and enter the result here.	_____	_____
7. For each parent, compare line 5 to line 6 and enter the greater amount.	_____	_____
8. Combined income available (add both columns, line 7)	_____	
9. Parental share of combined income available (divide each column of line 7 by line 8)	_____	_____
10. Number of children due support in this calculation (total number of children named on page 1 of this worksheet)	_____	
11. Primary child support allowance for number of children in line 10 (from Table 2)	_____	
12. Supplement to primary allowance (combine annual expenses of mother, father and third party custodian, if applicable)		
a. Child daycare costs less dependent care tax credit	_____	_____
b. Child health insurance premium	_____	_____
c. Child extraordinary medical expenses	_____	_____
d. Other _____	_____	_____
e. Total supplement (add 12a, 12b, 12c and 12d)	_____	_____
13. Total primary allowance and supplement (add lines 11 and 12e)	_____	_____
14. For each parent: if line 6 is greater than line 5, skip to line 21 and enter the amount from line 6. If line 6 is less than line 5, go to line 15.		
15. Parent's share of total (for each column, multiply line 13 by line 9)	_____	_____
16. Compare line 15 to line 5. Enter the smaller amount here.	_____	_____
17. Income available for SOLA (line 5 minus line 16; if zero, enter zero and skip to line 21)	_____	_____
18. Adjustments to income available for SOLA:		
a. Long distance parenting adjustment (from Worksheet D)	_____	_____
b. Other (specify) _____	_____	_____
19. Adjusted income available for SOLA (line 17 minus line 18a and 18b)	_____	_____
20. SOLA amount (from Worksheet E)	_____	_____

	MOTHER	FATHER		
21. Add line 16 and line 20	\$ _____	\$ _____		
22. Gross annual obligation (for each parent, compare line 21 to line 6; enter the larger amount.)	_____	_____		
23. Credit for payment of expenses (enter amount of line 12 expenses that each parent pays)	_____	_____		
24. Net annual obligation (line 22 minus line 23; if less than zero, enter zero)	_____	_____		
25. Enter the number of days each child spends with each parent annually in columns A and B. Determine if all of the children spend 110 days or less with the same parent. (Do all the children reside primarily with the same parent and spend 110 days or less with the other parent?) If YES , divide the line 24 obligation for the parent who cares for the children 110 days or less by the number of children on line 10. Enter the result in column C or D (depending on which parent's obligation is being divided) for each child. Leave the other parent's column blank. If NO , complete worksheet B.				
Child's Name	A Mother	B Father	C Mother	D Father
a. _____	_____ +	_____ = 365	_____	_____
b. _____	_____ +	_____ = 365	_____	_____
c. _____	_____ +	_____ = 365	_____	_____
d. _____	_____ +	_____ = 365	_____	_____
e. _____	_____ +	_____ = 365	_____	_____
f. _____	_____ +	_____ = 365	_____	_____
g. _____	_____ +	_____ = 365	_____	_____
h. _____	_____ +	_____ = 365	_____	_____
i. Total Obligation (add lines 25a through 25h)			_____	_____
26. Determine the difference between line 25i column C and line 25i column D. Enter the difference in the column of the parent having the higher obligation.			_____	_____
27. Total monthly transfer payment (line 26 divided by 12)	\$ _____	\$ _____		

Complete Summary and Analysis page to determine monthly transfer payment per child

THIS IS A STANDARD CALCULATION. ANY ADJUSTMENT TO THE OBLIGATION IS SUPPORTED BY WRITTEN FINDINGS.

COMMENTS: _____

PREPARED BY

DATE

MONTANA CHILD SUPPORT GUIDELINES

SUMMARY and ANALYSIS

This page must be attached to Worksheet A to determine a "per child" obligation according to Rule 16(2) (ARM 37.62.134)

SECTION 1 - PER CHILD OBLIGATIONS

This section calculates a "per child" breakdown of the transfer payment on line 27, worksheet A. Enter in column #1, the name of each child included in the calculation. In column #2, enter the amount of child support shown on worksheet A, line 25, column C for each child. In column #3, enter the amount in column #2 divided by 12. In column #4 enter the amount of child support shown on worksheet A, line 25, column D for each child. In column #5, enter the amount in column #4 divided by 12. Total column #3 and column #5.

#1 Child's Name	#2 Mother's Obligation (line 25, col C)	#3 Mother Per Child/ Per Month	#4 Father's Obligation (line 25, col D)	#5 Father: Per Child/ Per Month
a. _____	_____ + 12 = _____	_____	_____ + 12 = _____	_____
b. _____	_____ + 12 = _____	_____	_____ + 12 = _____	_____
c. _____	_____ + 12 = _____	_____	_____ + 12 = _____	_____
d. _____	_____ + 12 = _____	_____	_____ + 12 = _____	_____
e. _____	_____ + 12 = _____	_____	_____ + 12 = _____	_____
f. _____	_____ + 12 = _____	_____	_____ + 12 = _____	_____
g. _____	_____ + 12 = _____	_____	_____ + 12 = _____	_____
h. _____	_____ + 12 = _____	_____	_____ + 12 = _____	_____
	TOTAL	_____	TOTAL	_____

COMPLETE ONE OF THE FOLLOWING:

- A. If there are entries in column #3 but **not** in column #5
and the amounts in column #3 are all the same:
 MOTHER OWES FATHER (Enter total of column #3): \$ _____ per month
 MOTHER OWES FATHER PER CHILD (Enter amount from any line of column #3): \$ _____ per month
- B. If there are entries in column #5 but **not** in column #3
and the amounts in column #5 are all the same:
 FATHER OWES MOTHER (Enter total of column #5): \$ _____ per month
 FATHER OWES MOTHER PER CHILD (Enter amount from any line of column #5): \$ _____ per month
- C. If A or B, above, does not apply, the "per child" obligations are shown on lines a through h in column #3 and column #5.

SECTION 2 - WORKSHEET VARIABLES

This section provides a record of facts or assumptions on which the child support worksheet is based.

	Mother	Father
Tax Filing Status: (S-single; M-married)	_____	_____
Number of Tax Exemptions Claimed	_____	_____
Number of Children for Child Tax Credit	_____	_____
Number of Children for Earned Income Credit	_____	_____
Number of Children for Dependent Care Tax Credit	_____	_____

MONTANA CHILD SUPPORT GUIDELINES

Worksheet B

(Combination Parenting Arrangements - Part 1)

Complete Worksheet B (WS-B), Part 1, only if indicated on Worksheet A (WS-A), line 25.

- | | | | | |
|--|--|--|--|--|
| 1. Enter name of each child from WS-A. | | | | |
| 2. Divide line 11, WS-A by the total number of children on line 1 (above) and enter here. | | | | |
| 3. Enter the supplemental needs shown on WS-A, 12a, 12b, 12c, 12d, separated out by child. The total for all children must match WS-A, line 12e. | | | | |
| 4. Total needs of each child; line 2 plus line 3. | | | | |
| 5. Add all columns of line 4. | | | | |
| 6. For each child (column), divide line 4 by line 5. | | | | |

MOTHER'S DIVISION OF OBLIGATION

- | | | | | |
|---|--|--|--|--|
| 7. Enter Mother's gross obligation from WS-A, line 22. | | | | |
| 8. Enter amount from Mother's line 20, WS-A. | | | | |
| 9. Subtract line 8 from line 7. | | | | |
| 10. Multiply line 6 by line 9 for each child. | | | | |
| 11. Enter amount from Mother's line 20, WS-A. | | | | |
| 12. Divide line 11 by total children on line 1. | | | | |
| 13. Add line 10 and line 12. | | | | |
| 14. Enter credit for payment of expenses for each child. The total must match Mother's line 23, WS-A. | | | | |
| 15. Mother's obligation for each child: subtract line 14 from line 13 for each child. Enter here and on WS-B, Part 2, Column A, line 1. If less than zero, enter as negative. | | | | |

FATHER'S DIVISION OF OBLIGATION

- | | | | | |
|---|--|--|--|--|
| 16. Enter Father's gross obligation from WS-A, line 22. | | | | |
| 17. Enter amount from Father's line 20, WS-A. | | | | |
| 18. Subtract line 17 from line 16. | | | | |
| 19. Multiply line 6 by line 18 for each child. | | | | |
| 20. Enter amount from Father's line 20, WS-A. | | | | |
| 21. Divide line 20 by total children on line 1. | | | | |
| 22. Add line 19 and line 21. | | | | |
| 23. Enter credit for payment of expenses for each child. The total must match Father's line 23, WS-A. | | | | |
| 24. Father's obligation for each child: subtract line 23 from line 22 for each child. Enter here and on WS-B, Part 2, Column B, line 1. If less than zero, enter as negative. | | | | |

MONTANA CHILD SUPPORT GUIDELINES

Worksheet B

(Combination Parenting Arrangements - Part 2)

Complete Worksheet B (WS-B), Part 2 only if Worksheet B, Part 1 was completed.

Complete one section of Part 2 for each child included in Worksheet A.

CHILD'S NAME: _____	Column A <u>Mother</u>	Column B <u>Father</u>
1. Obligation from WS-B, Part 1: Mother, line 15, Father, line 24.	_____	_____
2. Enter number of days spent with each parent during the year.	_____	_____
3. If line 2 is greater than 110 for both parents, go to line 5. If not, enter the obligation from line 1 of the parent with the least number of days. Leave the other parent's line blank. Go to line 12.	_____	_____
4. Rate of normal visitation.	110	110
5. Subtract line 4 from line 2.	_____	_____
6. Credit factor.	0.0069	0.0069
7. Multiply line 6 by line 5.	_____	_____
8. Multiply line 7 by line 1(round to the nearest dollar).	_____	_____
9. Subtract line 8 from line 1.	_____	_____
10. Determine the difference between line 9, Col. A and line 9, Col. B and enter in the column of the parent with the higher obligation.	_____	_____
11. If entry on line 10, compare to entry on line 1; enter smaller amount here.	_____	_____
12. Enter amount from line 3 or line 11. Enter here and on line 25, WS-A, column C or D for this child.	_____	_____

CHILD'S NAME: _____	Column A <u>Mother</u>	Column B <u>Father</u>
1. Obligation from WS-B, Part 1: Mother, line 15, Father, line 24.	_____	_____
2. Enter number of days spent with each parent during the year.	_____	_____
3. If line 2 is greater than 110 for both parents, go to line 5. If not, enter the obligation from line 1 of the parent with the least number of days. Leave the other parent's line blank. Go to line 12.	_____	_____
4. Rate of normal visitation.	110	110
5. Subtract line 4 from line 2.	_____	_____
6. Credit factor.	0.0069	0.0069
7. Multiply line 6 by line 5.	_____	_____
8. Multiply line 7 by line 1(round to the nearest dollar).	_____	_____
9. Subtract line 8 from line 1.	_____	_____
10. Determine the difference between line 9, Col. A and line 9, Col. B and enter in the column of the parent with the higher obligation.	_____	_____
11. If entry on line 10, compare to entry on line 1; enter smaller amount here.	_____	_____
12. Enter amount from line 3 or line 11. Enter here and on line 25, WS-A, column C or D for this child.	_____	_____

MONTANA CHILD SUPPORT GUIDELINES

Worksheet C – Minimum Contribution

Income Ratio (IR) = line 3 divided by line 4 = ____ ÷ ____ = ____ (All line references are to worksheet A)	
If the IR is in the range . . .	then the minimum contribution is . . .
.00 to .25	.00 x line 3 =
over .25 to .31	.01 x line 3 =
over .31 to .37	.02 x line 3 =
over .37 to .43	.03 x line 3 =
over .43 to .50	.04 x line 3 =
over .50 to .56	.05 x line 3 =
over .56 to .62	.06 x line 3 =
over .62 to .68	.07 x line 3 =
over .68 to .75	.08 x line 3 =
over .75 to .81	.09 x line 3 =
over .81 to .87	.10 x line 3 =
over .87 to .93	.11 x line 3 =
over .93 to 1.00	.12 x line 3 =

Enter the minimum contribution amount (the result from the right-hand column) on line 6, Worksheet A.

MONTANA CHILD SUPPORT GUIDELINES

Worksheet D—Long Distance Parenting Adjustment

1. Annual mileage actually driven by the parent to exercise long-distance parenting _____
2. Current IRS business mileage rate (from Table 3) _____
3. Parent's mileage cost (line 1 times line 2) _____
4. Parent's annual cost of transportation by means other than automobile _____
5. Parent's total cost (line 3 plus line 4) _____
6. Standard expense (from Table 3) _____
7. LONG-DISTANCE PARENTING ADJUSTMENT
(line 5 minus line 6; if less than zero, enter zero;
enter this amount on line 18a, Worksheet A) _____

Worksheet E – Standard of Living Adjustment (SOLA)

Number of Children	Adjusted Income Available for SOLA (line 19)	SOLA Factor	SOLA Amount
1	\$	x .14	– \$
2	\$	x .21	– \$
3	\$	x .27	– \$
4	\$	x .31	– \$
5	\$	x .35	– \$
6	\$	x .39	– \$
7	\$	x .43	– \$
8 or more	\$	x .47	– \$

Enter the SOLA amount on line 20, Worksheet A.

April 1, 1999

Guidelines Tables Bulletin

NEW GUIDELINES TABLES

The CSED has published new Tables 1, 2, and 3 for use with the Montana Child Support Guidelines. The new tables are printed on the back of this bulletin and incorporate the 1999 U.S. poverty guidelines (Tables 1 and 2) and the 1999 IRS business mileage rate (Table 3).

INSTRUCTIONS FOR MANUAL MAINTENANCE

Insert this bulletin, with tables dated April 1999 printed on the reverse, in your manual at section CS 404.2.

Remove and destroy existing section CS 404.2 (tables dated November 1998).

Remove and destroy existing section CS 404.5, Minimum Subsistence Table, dated March 6, 1998. (This section will not be replaced; poverty guidelines amounts for family sizes greater than 1 are no longer needed in the calculation. For information on poverty guidelines by family size, see the Hardship Bulletin at section CS 510.5.)

Remove and destroy the existing Guidelines Bulletin dated January 14, 1998, at the beginning of section CS 404. (The interest rate for attributing income to assets is no longer used in the guidelines calculation. For information on the latest U.S. Treasury 10-year constant maturity rate, see the Hardship Bulletin at section CS 510.5.)

Update the Table of Contents as follows:

- Strike the entry for the old Guidelines Bulletin before section 404.1
- Write in an entry for the new Guidelines Tables Bulletin before section 404.2, with the date (4/1/99) and number of pages (1)
- Update section 404.2 to show the new date (4/99) and number of pages (1)
- Strike the entry for section 404.5.

MONTANA CHILD SUPPORT GUIDELINES

TABLE 1

PERSONAL ALLOWANCE PER YEAR
(ARM 37.62.114)

FOR EACH PARENT 10,712

TABLE 2

PRIMARY CHILD SUPPORT ALLOWANCE PER YEAR
(ARM 37.62.121)

ANNUAL ALLOWANCE FOR OTHER CHILDREN
(ARM 37.62.110)

Number of Children	Allowance for children of this calculation (enter on line 11, worksheet A)	Allowance for "other children" (enter on line 2b worksheet A)
1	3214	1607
2	5356	2678
3	7498	3749
4	8570	4285
5	9641	4820
6	10712	5356
7	11783	5892
8	12854	6427

TABLE 3

LONG DISTANCE PARENTING ADJUSTMENT
(ARM 37.62.130)

IRS Business Mileage Rate: \$0.31 (31¢)
Standard Expense: \$620

MONTANA CHILD SUPPORT GUIDELINES

TABLE 1

PERSONAL ALLOWANCE PER YEAR
(ARM 37.62.114)

FOR EACH PARENT 10,465

TABLE 2

PRIMARY CHILD SUPPORT ALLOWANCE PER YEAR
(ARM 37.62.121)

ANNUAL ALLOWANCE FOR OTHER CHILDREN
(ARM 37.62.110)

Number of Children	Allowance for children of this calculation (enter on line 11, worksheet A)	Allowance for "other children" (enter on line 2b worksheet A)
1	3140	1570
2	5233	2617
3	7326	3663
4	8372	4186
5	9419	4710
6	10465	5233
7	11512	5756
8	12558	6279

TABLE 3

LONG DISTANCE PARENTING ADJUSTMENT
(ARM 37.62.128)

IRS Business Mileage Rate: \$0.315 (31.5¢)

Standard Expense: \$630

TABLE 4 - STANDARD OF LIVING ADJUSTMENT (SOLA)

If the amount on line 21		and the number of children from line 13 is:								
is at least	but not more than	1	2	3	4	5	6	7	8	9+
The SOLA amount is:										
0	50	4	5	7	8	9	10	11	12	13
51	100	11	16	20	23	26	29	32	35	38
101	150	18	26	34	39	44	49	54	59	63
151	200	25	37	47	54	61	68	75	82	88
201	250	32	47	61	70	79	88	97	106	113
251	300	39	58	74	85	96	107	115	129	138
301	350	46	68	88	101	114	127	140	153	163
351	400	53	79	101	116	131	146	161	176	188
401	450	60	89	115	132	149	166	183	200	213
451	500	67	100	128	147	166	185	204	223	238
501	550	74	110	142	163	184	205	226	247	263
551	600	81	121	155	178	201	224	247	270	288
601	650	88	131	169	194	219	244	269	294	313
651	700	95	142	182	209	236	263	290	317	338
701	750	102	152	196	225	254	283	312	341	363
751	800	109	163	209	240	271	302	333	364	388
801	850	116	173	223	256	289	322	355	388	413
851	900	123	184	236	271	306	341	376	411	438
901	950	130	194	250	287	324	361	398	435	463
951	1000	137	205	263	302	341	380	419	458	488
If the amount on line 21 is greater than \$1000, see Administrative Rules of Montana 46.30.1534.										

ARM 46.30.1534 (9/92)

NOTE: SOLA amounts represent calculations based on the applicable percentage applied to the midpoint of the range of the numbers in the two columns on the left. More exact calculations may be made by following the procedures shown in the guidelines.

MONTANA CHILD SUPPORT GUIDELINES FINANCIAL AFFIDAVIT

INSTRUCTIONS FOR COMPLETING THIS FORM: This form is a legal document. **It must be signed and notarized.** Provide complete information. If a question or statement does not apply to you, **DO NOT LEAVE BLANK.** Instead, mark it as "Not Applicable" or "N/A." Your social security number is requested on this form. No state law requires you to give this number. Child Support Enforcement Division (CSED) uses these numbers to track cases on the computer and to apply payments to the correct case. CSED also uses the numbers to locate assets and to enforce support obligations. In an enforcement action, the other party may discover social security numbers provided to the CSED. In a CSED case, you may request protection of specific information contained in this document by contacting your CSED caseworker.

A. PERSONAL INFORMATION

Name: _____ Social Security No. _____

Address: _____ Telephone No. () _____

_____ Date of Birth _____

1. Did you finish high school? ☐ Yes ☐ No Case/Cause # _____

If no, indicate highest grade completed: _____

List all schools attended following high school. Include vocational-technical training school, college or university, trade school. Attach additional pages as needed.

Name	Course of Study	Completion Date	Degree/Diploma

2. What is your filing status? ☐ Single ☐ Head of Household ☐ Married - Joint ☐ Married - Separate

How many exemptions do you claim on your tax return _____

List the people you claim as tax exemptions: _____

B. CHILDREN

1. List all of your natural and adopted children (do not include stepchildren)

Child's Full Name	Date of Birth Month/Day/Year	Who does child live with?	Are you ordered to pay support for this child?
			☐ Yes ☐ No \$ _____ amount/month
			☐ Yes ☐ No \$ _____ amount/month
			☐ Yes ☐ No \$ _____ amount/month
			☐ Yes ☐ No \$ _____ amount/month
			☐ Yes ☐ No \$ _____ amount/month
			☐ Yes ☐ No \$ _____ amount/month

Attach additional pages as needed. **ATTACH A COPY OF ANY ORDER REQUIRING CHILD SUPPORT TO BE PAID FOR THESE CHILDREN.**

2. Complete the table below for all children shown in the previous table.

Child's First Name	Day Care Costs (per month)	Extraordinary Medical Expenses (per month)	Dependent's Benefits Received (per month) *	How many days and nights does child spend with you per year?

Attach proof of expenses paid and benefits received.

* For example - Social Security Benefits
Veteran's Benefits

3. If applicable, do you receive reimbursement for:

- day care expenses? ☐ Yes ☐ No \$_____ / month reimbursement
- medical expenses? ☐ Yes ☐ No \$_____ / month reimbursement

4. If any of the children listed above have extraordinary on-going medical expenses, please describe the nature of the medical condition. Attach additional pages as needed. _____

5. Do you have health insurance? ☐ Yes ☐ No
Is it available through employment or union? ☐ Yes ☐ No

Name of Insurance Company: _____

Address: _____

Policy Number: _____ Certificate Number: _____

Name everyone who is covered by this policy: _____

Total health insurance premium paid per month: \$ _____

How much for Adults? \$ _____ Children? \$ _____ How many children are covered? _____

C. HOUSEHOLD SIZE

Excluding all children, list everyone who lives in your house. Also list everyone, except children you pay support for even if they don't live with you, if you claim them as dependents for income tax purposes. Remember to include yourself.

In the following table, list the NAMES in column "A." List your RELATIONSHIP to the person in column "B." List the person's DATE OF BIRTH in column "C." Indicate if the person is your LEGAL DEPENDENT by circling "yes" or "no" in column "D." Indicate if the person has INCOME by circling "yes" or "no" in column "E." Attach additional pages as needed.

A	B	C	D	E
Name	Relationship to you	Date of Birth	Is this person your Legal Dependent?	Does this person have income?
	SELF		YES	YES NO
			YES NO	YES NO
			YES NO	YES NO
			YES NO	YES NO
			YES NO	YES NO

Attach a copy of any order requiring you to pay support

D. EMPLOYMENT

1. Are you currently employed? ☐ Yes ☐ No

2. Do you work at more than one job? ☐ Yes ☐ No

3. List your current employer(s) first and your past three employers:

Employer's name, address and telephone	Dates of employment	Average hours worked and current or ending pay	P-Permanent T-Temporary S-Seasonal	If temporary, date employment ends
	From _____	_____ hours per week		
	To _____	_____ pay/hour		
	From _____	_____ hours per week		
	To _____	_____ pay/hour		
	From _____	_____ hours per week		
	To _____	_____ pay/hour		
	From _____	_____ hours per week		
	To _____	_____ pay/hour		
	From _____	_____ hours per week		
	To _____	_____ pay/hour		

If you have more employers, attach additional pages.

4. What kind of work did you/did you do for your employer(s)? _____

5. Do you belong to a union? ☐ Yes ☐ No Union Dues per month \$ _____
If yes, name and address of your union local: _____
6. Do you receive workers' compensation, or occupational disease benefits? ☐ Yes ☐ No
If yes, name of state, agency, insurer or employer paying those benefits: _____
Claim Number: _____
If no, are you currently seeking workers' compensation benefits, or occupational disease benefits? ☐ Yes ☐ No
Are you negotiating for a lump-sum settlement? ☐ Yes ☐ No
7. Are you currently receiving unemployment benefits? ☐ Yes ☐ No
If yes, name of state or agency paying those benefits: _____
8. If unemployed or employed part-time, have you made any efforts to find full-time employment? ☐ Yes ☐ No
If yes, describe your job search: _____
If no, why not? _____

ATTACH ADDITIONAL PAGES AS NEEDED

E. INCOME

1. Do you receive any non-money pay from your employer, such as housing, groceries, meat, car or truck, utilities, phone service? ☐ Yes ☐ No
If yes, describe the non-money pay you receive, how often you receive it, and the value of the benefit: _____
Attach additional pages as needed.
2. If you are self-employed: Attach additional pages as needed.
• Describe your self-employment activities: _____
• How many hours per week do you spend engaged in self-employment activities? _____
• Are your self-employment activities the primary source of your income for meeting your living expenses? ☐ Yes ☐ No
• Do you receive loans to meet operating expenses for your self-employment activity? ☐ Yes ☐ No
3. Have you, in the past 12 months, received any prize, award, settlement or other one-time cash payment? ☐ Yes ☐ No
If yes, describe the payment, including the amount and its present location and value: _____
4. For any of your children receiving social security or veteran's benefits as a result of your disability, specify name of child and amount received: _____
5. In the following table, list all income which you now receive or have received in the last 12 months. If seasonal, list starting and ending date in the amount column. **ATTACH COPIES OF PAY STUBS FOR THE LAST THREE MONTHS. ATTACH COMPLETE COPIES OF FEDERAL INCOME TAX RETURNS FILED IN EACH OF THE PRECEDING TWO YEARS.** Include all schedules filed and W-2 forms. If you do not have pay stubs or W-2 forms, provide an employer's statement. Attach additional pages as needed.

Income Source	Amount	How Often Received?	Income Source	Amount	How Often Received?
Gross Wages			AFDC Payments		
Unemployment			Food Stamps		
Workers' Compensation			Other Public Assistance		
Social Security Benefits			Veterans' Disability		
Retirement			Spousal Support		
Rents			Contract Receipts		
Interest Income			Dividend Income		
Bonuses			Reimbursements		
Profit (Loss) from Self-Employment			Fringe Benefits: _____		
Educational Grants			Dependents' Income		
Current Spouse's/ Partner's Income			Other: _____		

F. DEDUCTIONS AND EXPENSES

1. List deductions from your gross wages. Include expenses for mandatory uniforms or work-related equipment.

Attach pay stubs and proof of expenses.

DEDUCTION	AMOUNT	HOW OFTEN PAID?
Federal Income Tax		
State Income Tax		
FICA and Medicare		
Union Dues		
Retirement		
Health Insurance		
Other: _____		

If other deductions are made from your pay, attach additional pages as needed.

2. Do you have any extraordinary medical expenses for yourself, not reimbursed by insurance, your employer, or another,

which are necessary for you to maintain your health or your earning capacity? ☐ Yes ☐ No

If yes, describe fully, including the nature and amount of the expenses. Indicate whether the amounts are actual monthly costs, or represent average monthly costs, based on past expenses: _____

Attach additional pages as needed.

3. Do you pay for elder care, in-home nursing care, or similar items on behalf of household members who are also your legal dependents? ☐ Yes ☐ No

If yes:

- is the expense necessary to allow you to work? ☐ Yes ☐ No
- do you receive any reimbursement of the expenses from insurance, your employer, or another source?
☐ Yes ☐ No

If you answered "yes" to either question, describe fully, including the nature and amount of the expenses, and the dependent for whom the expense is incurred. Indicate whether the amounts are actual monthly costs, or represent average monthly costs, based on past expenses: _____

Attach additional pages as needed.

4. List employment related expenses not shown elsewhere: _____

5. List other monthly expenses:

Expense	Amount	Expense	Amount
Housing		Clothing	
Utilities		Insurance Premiums *	
Food, Household Supplies		Entertainment	
Transportation		Court-Ordered Payments ** (Attach copy of the Court order)	
Dependents' Education Names: _____		Uninsured Health-Related Not Described Above	
Personal Education		All Other Payments	

* Do not include health insurance

** Do not include child support.

G. ASSETS

List all of your assets. Include any that you own jointly with another person(s) and show how much of it you own (example: 50%). "Fair Market Value" means how much is it worth, or how much could you sell it for. If you owe money on the asset, list the amount remaining to be paid by you, and to whom you make payments.

Asset	Description and Location of Asset	Fair Market Value	Amount Owed & To Whom Owed
Checking Account(s)	Bank:	Balance:	
	Acct.No.:		
Savings Account(s)	Bank:	Balance:	
	Acct.No.:		
Cash on Hand			
Savings Bonds			
Stocks/Bonds/CD's			
Home			
Other Real Estate			
Auto No. 1			
Auto No. 2			
Truck/Motorcycle			
Trailer/Camper/RV			
Boat/Snowmobile			
Retirement Account(s)			
Cash-Value Life Insurance			
Farm/Business Equipment			
Livestock/Poultry			
Other: _____			

List all other assets on a separate page, describing their location and fair market value in full.

H. DEVIATIONS/VARIANCES

In some cases, application of the guidelines may result in a child support amount which is not completely fair. A variation from the guideline amount may be proper. Specific findings of fact which support the variation must be made. A variation may decrease or increase the support amount, depending on the reason for the variation.

Do you claim any of the following factors as a reason to vary from the strict application of the guidelines? Check any boxes that apply:

- ☐ in the course of a dissolution of marriage, a property distribution between the parents or to the child was made instead of support.
- ☐ private, parochial or trade school tuition expenses for the child(ren) who is the subject of this calculation.
- ☐ cost of living differential based upon the geographical location of the parties.
- ☐ increased cost based upon the physical residence of the child with a third party, not a parent.

- ☐ parent's overall financial condition.
- ☐ the custodial parent and child(ren) occupy the former family home free of charge or at substantially reduced costs.
- ☐ the non-custodial parent has been allotted the dependent tax deduction(s).
- ☐ the costs of supporting children age 16 or older require an adjustment.
- ☐ the costs of long-distance visitation require an adjustment.
- ☐ the child is a professional or is engaged in some money-making activity, and earns a large sum of money.
- ☐ OTHER: (Specific facts under MCA § 40-4-204 or § 40-6-116(5) which show that application of the guidelines is inequitable.)

☐ the custodial parent and child(ren) occupy the former family home free of charge or at substantially reduced costs.

☐ the non-custodial parent has been allotted the dependent tax deduction(s).

☐ the costs of supporting children age 16 or older require an adjustment.

☐ the costs of long-distance visitation require an adjustment.

☐ the child is a professional or is engaged in some money-making activity, and earns a large sum of money.

☐ OTHER: (Specific facts under MCA § 40-4-204 or § 40-6-116(5) which show that application of the guidelines is inequitable.)

IF YOU CHECKED **ANY** OF THESE BOXES, YOU MUST EXPLAIN YOUR REASONS FOR CLAIMING A DEVIATION. You must provide sufficient factual detail to support your claim. If you fail to provide this detail, your claim cannot be considered. Attach additional pages as needed.

Reasons for claiming a deviation from the guidelines:

VERIFICATION: You must sign this in front of a Notary Public.

STATE OF _____)
 : ss.
COUNTY OF _____)

I declare, subject to penalties for perjury and false swearing, that I have read the foregoing affidavit and that the information contained in it and in any attachments to it is true and correct to the best of my knowledge, information and belief.

DATED this _____ day of _____, 19____.

Affiant

SUBSCRIBED AND SWORN TO before me, a Notary Public for this State on the date and at the place written above.

(SEAL)

NOTARY PUBLIC

Residing at:

My Commission Expires:

CS 404.4

Department of Revenue

SECTION:

ADMINISTRATIVE DETERMINATION
OF SUPPORT AMOUNT

SUBJECT

Child Care Worksheet

Child Support Enforcement

PURPOSE:

In those cases where the Child Support Enforcement Program is determining a child support amount and where there exists a child care expense for the children involved the cost of the child care is to be apportioned between both parents. (See 404.1, K).

USE:

Child care will be determined only when an actual child care expense exists.

CS 404.4

WORKSHEET FOR
CHILD CARE COSTS

CASE NAME		CASE NUMBER		
		MOTHER	COMBINED	FATHER
☐ 1	1. Costs of Child Care (annualized)			
☐ 2	2. Net Available Income			
☐ 3	3. Combined Net Income			
☐ 4	4. Pro-rate share (line 2 divided by line 3)			
☐ 5	5. Parent's Share of Costs (line 4 times line 1)			
☐ 6	6. Monthly child care obligation (line 5 divided by 12)			
☐ 7	7. Monthly child support obligation (line 7, Worksheet CS 404.2)			
☐ 8	8. Child support with child care costs (line 6 plus line 7)			

PREPARED BY: _____ DATE: _____

Department of Revenue

SECTION

ADMINISTRATIVE DETERMINATION
OF SUPPORT AMOUNT

SUBJECT

Child Care Worksheet

Child Support EnforcementCHILD SUPPORT
PROGRAMChild care worksheet - used to determine each
parents financial obligation for child care.

CALL OUT NUMBER

ACTION

- | | |
|-----|---|
| [1] | Actual costs of child care computed on a annual basis. |
| [2] | Net available income for both parents from Line 3 (net available resources) CS 404.2. |
| [3] | Combine Line 2 (net available income) amounts. |
| [4] | Divide each parents (net available income) line 2 by line 3 (combined net income) to determine each parents percent of cost obligation. |
| [5] | Multiply the percentage shown on line 4 (pro-rate share) times the child care costs on line 1. |
| [6] | Divide line 5 by 12 months. |
| [7] | Monthly child support amount from CS 404.2, line 7 (monthly support obligation). |
| [8] | Combine line 6 and line 7. This line represents total obligation by both parents. |

TABLE 1 - SELF-SUPPORT RESERVE

If the Size of Household (line 9a) is:	and the number of income earners (line 9b) is:							
	0 or 1	2	3	4	5	6	7	8
	Self-Support Reserve Amount is:							
1	581	-	-	-	-	-	-	-
2	786	443	-	-	-	-	-	-
3	991	546	397	-	-	-	-	-
4	1,196	648	465	374	-	-	-	-
5	1,401	751	534	425	360	-	-	-
6	1,606	853	602	477	401	351	-	-
7	1,811	956	670	528	442	385	344	-
8	2,016	1,058	739	579	483	419	374	340

EXAMPLE:

Size of household = 5 (line 9a)
Income earners = 3 (line 9b)
Self Support Reserve = 534 (line 9c)

**FIND THE
SELF-SUPPORT RESERVE
SEPARATELY FOR EACH
PARENT.**

**TABLE 2 - CHILD(REN)'S
PRIMARY NEED**

<u># OF CHILDREN</u>	<u>PRIMARY NEED</u>
1	174
2	291
3	407
4	465
5	523
6	581
7	639
8	697
Add \$58 for each additional child.	

TABLE 3 - MINIMUM CONTRIBUTION

X SSR (line 9c)	A 1/3 of SSR	B 2/3 of SSR	C 3/3 of SSR	1 5% minimum	2 7% minimum
340	113	227	340	9	20
344	115	229	344	9	20
351	117	234	351	9	20
360	120	240	360	9	21
374	125	249	374	9	22
385	128	257	385	10	22
397	132	265	397	10	23
401	134	267	401	10	23
419	140	279	419	10	24
425	142	283	425	11	25
442	147	295	442	11	26
443	148	295	443	11	26
465	155	310	465	12	27
477	159	318	477	12	28
483	161	322	483	12	28
528	176	352	528	13	31
534	178	356	534	13	31
546	182	364	546	14	32
579	193	386	579	14	34
581	194	387	581	15	34
602	201	401	602	15	35
648	216	432	648	16	38
670	223	447	670	17	39
739	246	493	739	18	43
751	250	501	751	19	44
786	262	524	786	20	46
853	284	569	853	21	50
956	319	637	956	24	56
991	330	661	991	25	58
1,058	353	705	1,058	26	62
1,196	399	797	1,196	30	70
1,401	467	934	1,401	35	82
1,606	535	1,071	1,606	40	94
1,811	604	1,207	1,811	45	106
2,016	672	1,344	2,016	50	118

NOTE: Columns 1 and 2 represent calculations based on the applicable percentage applied to the midpoint of the range of columns A and B and columns B and C. More exact calculations may be made by following the procedures shown in the guidelines.

TABLE 3 INSTRUCTIONS

SSR = Self Support Reserve

Find the number in column X that is equal to the Self-Support Reserve shown on line 9c of the worksheet. **That number identifies the line, left to right, to use in the following instructions.**

1. If line 8 of the worksheet (Net Monthly Income) is less than the amount in column A, the minimum contribution is zero. Enter zero on line 24.

2. If line 8 income is greater than or equal to the amount in column A but less than the amount in column B, find the minimum contribution in column 1 and enter on line 24.

3. If line 8 income is greater than or equal to the amount in column B but less than the amount in column C, find the minimum contribution in column 2 and enter on line 24.

This calculation may have to be made separately for each parent, depending on income.

EXAMPLE:

Self-Support Reserve = 534 (line 9c)
 Net Monthly Income = 375 (line 8)
 Minimum Contribution = 31 (enter on line 24)

TABLE 4 - STANDARD OF LIVING ADJUSTMENT (SOLA)

If the amount on line 21		and the number of children from line 13 is:								
is at least	but not more than	1	2	3	4	5	6	7	8	9+
The SOLA amount is:										
0	50	4	5	7	8	9	10	11	12	13
51	100	11	16	20	23	26	29	32	35	38
101	150	18	26	34	39	44	49	54	59	63
151	200	25	37	47	54	61	68	75	82	88
201	250	32	47	61	70	79	88	97	106	113
251	300	39	58	74	85	96	107	115	129	138
301	350	46	68	88	101	114	127	140	153	163
351	400	53	79	101	116	131	146	161	176	188
401	450	60	89	115	132	149	166	183	200	213
451	500	67	100	128	147	166	185	204	223	238
501	550	74	110	142	163	184	205	226	247	263
551	600	81	121	155	178	201	224	247	270	288
601	650	88	131	169	194	219	244	269	294	313
651	700	95	142	182	209	236	263	290	317	338
701	750	102	152	196	225	254	283	312	341	363
751	800	109	163	209	240	271	302	333	364	388
801	850	116	173	223	256	289	322	355	388	413
851	900	123	184	236	271	306	341	376	411	438
901	950	130	194	250	287	324	361	398	435	463
951	1000	137	205	263	302	341	380	419	458	488
If the amount on line 21 is greater than \$1000, see Administrative Rules of Montana 46.30.1534.										

NOTE: SOLA amounts represent calculations based on the applicable percentage applied to the midpoint of the range of the numbers in the two columns on the left. More exact calculations may be made by following the procedures shown in the guidelines.

Department of Social and
Rehabilitation Services

Section:

Administrative Determination
of a Support Amount

Subject:

Minimum Subsistence Table
(U.S. Poverty Guidelines)

CHILD SUPPORT ENFORCEMENT**POLICY:**

The U.S. Poverty Guidelines, published annually by the federal government, are used in calculating child support orders according to the Montana Child Support Guidelines. They are the basis for the Self-Support Reserve Table, the Children's Primary Need Table and the Minimum Contribution Table. They are also used to determine if hardship adjustments are appropriate on arrearage payments in income withholding cases (section 510.5).

Poverty Guidelines published February 24, 1998, for states including Montana are as follows:

<u>FAMILY SIZE</u>	<u>MONTHLY AMOUNT</u>	<u>YEARLY AMOUNT</u>
1	\$671	\$8,050
2	\$904	\$10,850
3	\$1,138	\$13,650
4	\$1,371	\$16,450
5	\$1,604	\$19,250
6	\$1,838	\$22,050
7	\$2,071	\$24,850
8	\$2,304	\$27,650

For each additional family member above 8, add \$233 (monthly) or \$2,800 (yearly).

MONTANA CHILD SUPPORT GUIDELINES FINANCIAL AFFIDAVIT

Section CS 404.6

INSTRUCTIONS FOR COMPLETING THIS FORM: It must be signed and notarized. Provide complete information, attaching additional pages if needed. If a question or statement does not apply to you, **DO NOT LEAVE BLANK.** Instead, mark it as "Not applicable" or "N/A". Your social security number is requested on this form. No state law requires you to give this number. Courts and administrative agencies use this number to track cases and to apply payments to the correct case.

A. PERSONAL INFORMATION

Name: _____	Social Security #: _____
Home Address: _____	Telephone #: _____
_____	Date of Birth: _____
Mailing Address: _____	Case/Cause #: _____
_____	Driver's License #: _____

What is your tax filing status? ☐ Single ☐ Married, joint ☐ Married, separately ☐ Head of Household

List the people you claim as tax exemptions _____

If you are married and file taxes jointly, please provide your current spouse's annual income so that tax credits may be calculated accurately. \$ _____

Did you finish high school? ☐ Yes ☐ No If no, indicate highest grade completed: _____

List all schools attended following high school. Include training school, college or university, trade school.

School Name	Course of Study	Completion Date	Degree/Diploma

B. CHILDREN

1. List **all** of your natural and adopted children (do not include stepchildren)

Child's Full Name	Date of Birth Month/Day/Year	Who does child live with?	Are you ordered to pay support for this child?
			☐ No ☐ Yes \$ _____ amount/month
			☐ No ☐ Yes \$ _____ amount/month
			☐ No ☐ Yes \$ _____ amount/month
			☐ No ☐ Yes \$ _____ amount/month
			☐ No ☐ Yes \$ _____ amount/month
			☐ No ☐ Yes \$ _____ amount/month

ATTACH A COPY OF ANY ORDER REQUIRING CHILD SUPPORT TO BE PAID FOR THESE CHILDREN.

2. Complete the table below for all expenses you pay and benefits you receive on behalf of all children shown in the previous table. Attach proof for the items listed below. Do **NOT** list amounts paid by other parent.

Child's First Name	Annual Day Care Costs	Annual Unreimbursed Medical Expenses	Annual Dependent's Benefits Received*	How many days does child spend with you per year?**	Annual Miles Driven for Long Distance Parenting	Other Transportation Costs for Long Distance Parenting***

* For example - Social Security Benefits

** The majority of a 24 hour period the children are in your control

*** Do not include lodging, food and entertainment

3 Do you receive reimbursement for day care expenses? ☐ No ☐ Yes \$_____ / month reimbursement

4. If any of the children listed above have on-going medical expenses, please describe. _____

5. Do you have health insurance available to you through employment or other group? ☐ No ☐ Yes

If no, skip to Section C.

Name everyone who is covered by this policy: _____

Regardless of whether your children are covered, complete the following:

Insurance Co. Name: _____

Address: _____

Policy Number: _____

Certificate Number: _____

\$ _____ Total cost of health insurance premium per month, including your children (whether or not you and children are currently enrolled).

\$ _____ Adult's portion of premium.

\$ _____ Child(ren)'s portion of premium.

\$ _____ Portion of premium to be paid by you each month.

\$ _____ Portion of premium to be paid by employer or other group each month.

C. EMPLOYMENT

1. List your current or most recent employer(s) first and your past two employers:

Employer's Name, Address, and Telephone	Dates of Employment	Average Hours Worked and Current or Ending Pay	P-Permanent T-Temporary S-Seasonal
	From _____	_____ hours/week	
	To _____	_____ pay/hour	
	From _____	_____ hours/week	
	To _____	_____ pay/hour	
	From _____	_____ hours/week	
	To _____	_____ pay/hour	

2. What kind of work do you/did you do for your employer(s)? _____

3. Do you belong to a union? ☐ No ☐ Yes If yes, name of union local and address, and amount of monthly dues: _____

4. Do you receive workers' compensation, or occupational disease benefits? ☐ No ☐ Yes

If no, are you currently seeking workers' compensation benefits, or occupational disease benefits? ☐ No ☐ Yes

If yes, who pays those benefits, and what is your claim number: _____

5. Are you currently receiving unemployment benefits? ☐ No ☐ Yes

If yes, name of state or agency paying those benefits: _____

6. If unemployed or employed part-time, have you made any efforts to find full-time employment? ☐ No ☐ Yes

If not, why not? _____

If yes, describe your job search: _____

D. INCOME

1. List all income which you receive or have received in the last 12 months.

Income Source	Annual Amount	Income Source	Annual Amount
Gross Wages		Public Assistance	
Unemployment		Veterans' Disability	
Workers' Compensation		Spousal support	
Social Security Benefits		Contract Receipts	
Retirement		Rental Income	
Interest/Dividend Income		Fringe Benefits/Bonuses	
Reimbursements		Profit (Loss) from Self-employment	
Educational Grants		Other:	

Do you receive any non-cash benefits from your employer, such as housing, groceries, meat, car or truck, utilities, phone service? ☐ No ☐ Yes

If yes, describe the non-cash benefit you receive, how often you receive it, and the value of the benefit:

2. If you are self-employed, describe your self-employment activities: _____

How many hours per week do you spend engaged in self-employment activities? _____

Is your self-employment the primary source of your income for meeting your living expenses? ☐ No ☐ Yes

3. Have you, in the past 12 months, received any prize, award, settlement or other one-time cash payment?

☐ No ☐ Yes

If yes, describe the payment, including the amount and its present location and value.

4. ATTACH COPIES OF LAST THREE MONTHS PAY STUBS. ATTACH COMPLETE COPIES OF PRECEDING TWO YEARS FEDERAL INCOME TAX RETURNS. Include all schedules filed and W-2 forms. If you do not have pay stubs or W-2 forms, provide employer's statement.

E. DEDUCTIONS AND EXPENSES

1. List deductions from gross wages, including costs for required uniforms or work-related equipment.
Attach pay stubs and proof of expenses.

DEDUCTION	AMOUNT	HOW OFTEN PAID?
Federal Income Tax		
State Income Tax		
FICA and Medicare		
Mandatory Retirement		
Required Work Related Costs		

2. Do you have any extraordinary medical expenses for yourself, not reimbursed by insurance, your employer, or another, which are necessary for you to maintain your health or your earning capacity? ☐ No ☐ Yes
If yes, list yearly expenses and attach proof. _____
- Please list any necessary expense you pay for in-home nursing care to enable you to work and for whom the expense is paid: _____
4. List employment related expenses not shown elsewhere: _____
5. Please attach a list of monthly expenses if you feel it is important to show your financial situation.

F. ANTICIPATED CHANGES/ADDITIONAL COMMENTS

1. Please list any changes you expect in your or your child(ren)'s circumstances during the next 18 months which would affect the calculation of child support? _____
2. ADDITIONAL COMMENTS: _____

VERIFICATION: You must sign this in front of a Notary Public.

STATE OF _____)
: ss.
COUNTY OF _____)

I declare, subject to penalties for perjury and false swearing, that I have read the foregoing affidavit and that the information contained in it and all attachments to it is true and correct to the best of my knowledge, information and belief.

DATED this _____ day of _____, in the year of _____.

Affiant

SUBSCRIBED AND SWORN TO before me, a Notary Public for this State on the date and at the place written above.

(SEAL)

NOTARY PUBLIC

Residing at: _____
My Commission Expires: _____



Department of Revenue

section:

ADMINISTRATIVE DETERMINATION
OF A SUPPORT AMOUNT

CHILD SUPPORT ENFORCEMENT

subject:

Filing Abstracts of Final
Administrative Orders

POLICY:

Under Section 40-5-227, MCA, abstracts of Decisions and Orders signed by the CSEP Hearing Officer establishing support obligations may be filed in the District Court of any county of Montana. Once filed administrative orders acquire all the force, effect, and attributes of District Court orders, including enforceability by lien foreclosure, writs of execution, proceedings in aid of execution, and contempt of court proceedings. All administrative orders which establish current and future support obligations will automatically be filed, so that the orders will continue without regard to whether AFDC is being paid to or for the benefit of the child(ren). A Warrant for Dstraint should be issued in conjunction with the Abstract and filed under the same District Court cause number.

Copies of all orders establishing a support obligation should be sent to the obligor and obligee, as federal law requires. This will help assure that any party who might bring future court action (e.g., divorce, custody, etc.) will have notice that the filed order must be taken into consideration.

Filing abstracts of administrative orders assures that modifications by the District Court will be effective only as to installments occurring after the date of any motion for modification, and upon a showing of changed circumstances so substantial and continuing as to make the terms unconscionable.

Filing abstracts in District Court precludes administrative modification, and stipulated changes must be approved by the order of a District Judge.

NON-APPEARANCE AND DEFAULT ORDERS

After filing, if the underlying administrative order was entered as the result of a non-appearance or default, the obligor may file a petition in District Court seeking an independent determination of the

section:
ADMINISTRATIVE DETERMINATION
OF A SUPPORT AMOUNT

subject:
Filing Abstracts of Final
Administrative Orders

amount of current and future support and, if applicable, support arrearages or liability.

The court's independent determination is not based upon the record created by the CSEP as would be the case in a judicial review of the Decision and Order described in Section CS 406. The CSEP will be required to prove its case as if no administrative determination had ever been made. The burden of proving the existence of a support obligation, establishing the amount of any accrued support liability, and showing that the obligor has the ability to pay current and future support rests upon the CSEP.

The District Court will apply the formal Rules of Evidence more strictly than would be the case in an administrative hearing. The court is not bound by the Table of Minimum Contributions (Section CS 404.1), or any other CSEP policy which may be considered in an administrative hearing. The court will allow the obligor to use defenses not raised prior to the entry of the administrative Decision and Order.

NOTE: Due to the cost of defending petitions to the District Court, it will usually be to the advantage of the CSEP to settle disputes out of court. If this can be accomplished, a written agreement to modify the filed Decision and Order may be prepared with the assistance of a CSEP Attorney, signed, and submitted to the district judge for approval and adoption as an order of the court. In all cases, advise a CSEP Attorney immediately upon learning that an obligor has filed a petition in District Court.

If you have questions, consult your Regional Supervisor and/or a CSEP Attorney.

section:
ADMINISTRATIVE DETERMINATION
OF A SUPPORT AMOUNT

subject:
Filing Abstracts of Final
Administrative Order

PROCEDURE:

Responsibility

ACTION

PREPARATION AND FILING OF AN ABSTRACT OF FINAL
ADMINISTRATIVE ORDERS

.Hearings
Assistant

1. Immediately upon receipt of a CS-401.3E, "Decision and Order" or a Decision and Order issued pursuant to a CS-580 Stipulation, or at the end of the 33 day waiting period for any other Decision and Order which establishes a current and future support obligation, prepares an original and one copy of forms CS-404.8A, "Abstract of Final Administrative Order".
2. Prepares form CS-404.8B, "Praecipe" as follows:

- a. If a Warrant for Distrainment is appropriate, specifies that both the Warrant for Distrainment and the Abstract are to be filed under the same district court cause number, assigns a number to the Warrant for Distrainment which has been retained in the holding file, and forwards all three documents to the Program Manager for review.
- b. If a review of the Decision and Order indicates that filing of a Warrant for Distrainment is not appropriate, specifies that only the Abstract is to be filed, sends the Warrant for Distrainment back to the regional office which prepared it with a copy of the decision and order, and forwards the Abstract and Praecipe to the Program Manager for review.

.CSEP Manager

3. Reviews the prepared forms and, if correct, signs and affixes the Department of Revenue Seal and returns to the Hearings Assistant.

.Hearings
Assistant

4. Makes two copies of the Abstract (and, if appropriate, the Warrant for Distrainment) and mails original and one copy to the Clerk of the indicated District Court along with the original Praecipe, retaining the other in the Helena CSEP office control file.

section:
ADMINISTRATIVE DETERMINATION
OF A SUPPORT AMOUNT

subject:
Filing Abstracts of Final
Administrative Orders

5. Upon receipt of a certified copy of the filed Abstract (and, if appropriate, the Warrant for Distrainment) from the Clerk of the District Court, makes copies and:

- Mails the original to the regional office which initiated the action,
- Mails copies to the obligor, the obligee, and (if applicable) their attorneys,
- Retains a copy in the central office control file.

.Caseworker/
Typist

6. Upon receipt of the certified original(s), places them in the case file with appropriate notations, monitors compliance with terms of the filed order and, if necessary, takes appropriate enforcement action.

SEE FOLLOWING PAGES FOR INSTRUCTIONS AND SAMPLES.

section:
ADMINISTRATIVE DETERMINATION
OF A SUPPORT AMOUNT

subject:
Filing Abstracts of Final
Administrative Order

CS-404.8A
(Rev. 4/86)

IN THE DISTRICT COURT OF THE ¹
JUDICIAL DISTRICT OF THE STATE OF MONTANA
IN AND FOR THE COUNTY OF ²

STATE OF MONTANA, DEPARTMENT
OF REVENUE, ex rel.,

³

Plaintiff.

vs.

⁴

Defendant.

ABSTRACT OF FINAL
ADMINISTRATIVE ORDER

District Court
Cause No.

TO: THE CLERK OF THE DISTRICT COURT

THIS IS TO CERTIFY, pursuant to Section 40-5-227, MCA, that on the
_____ day of ⁵, 19____, a final administrative order
was entered by the State of Montana, Department of Revenue, Investi-
gation and Enforcement Division, Child Support Enforcement Program in
the above-entitled matter, requiring the Defendant to pay child support
as follows:

Administrative Notice No. ⁶

Administrative Order No. ⁷

1. CHILD SUPPORT in the amount of \$ ⁸ per month for the
following-named child(ren): ⁹
¹⁰, commencing the _____ day of
_____, 19____, and continuing on the ¹¹ day
of each and every month thereafter until the child(ren)
attains the age of majority, is otherwise emancipated, or
dies.
2. A JUDGMENT for public assistance (AFDC) paid during the
period ¹² through ¹²
in the amount of \$ ¹³.

section:

ADMINISTRATIVE DETERMINATION
OF A SUPPORT AMOUNT

subject:

Filing Abstracts of Final
Administrative Orders

3. REPAYMENT of the above judgment at the rate of \$ 14 per month commencing the 15 day of 19, and continuing on the 16 day of each and every month thereafter until paid.
4. A MEDICAL SUPPORT obligation which may be fulfilled by securing and maintaining health insurance coverage for the child(ren).

WITNESS: the hand and seal of the duly Authorized Agent of the
Department of Revenue this 17 day of 19.

(seal)

19

DEPARTMENT OF REVENUE
STATE OF MONTANA
John LaFaver
Director of Revenue

by: 18
Child Support Enforcement Program

Filed 19Docket No. 1919 County.

By: 19
(Deputy)

section:
ADMINISTRATIVE DETERMINATION
OF A SUPPORT AMOUNT

subject:
Filing Abstracts of Final
Administrative Order

INSTRUCTIONS:

Responsibility	Call Out Number	ACTION
		CS-404.8A, "ABSTRACT OF FINAL ADMINISTRATIVE ORDER"--Used to file a Decision and Order in the District Court.
.Hearings Assistant	1	Enter the judicial district number of the county of filing.
	2	Enter the name of the county in which the document is to be filed.
	3	Enter the name of the obligee.
	4	Enter the name of the obligor.
	5	Enter the date the Decision and Order was signed.
	6	Enter the notice number.
	7	Enter the Decision and Order number.
	8	Enter the monthly amount of current and future support.
	9	Enter the name(s) of the child(ren) for whom current and arrearage child support is to be paid.
	10	Enter the date on which current and future support is to commence.
	11	Enter the day of the month on which the current and future support is due.
	12	Enter the dates which represent the time period during which the reimbursement amount accrued (if AFDC has never been paid, enter "N/A"; if AFDC <u>was</u> paid, but no debt remains, enter the dates of public assistance).
	13	Enter the amount due as reimbursement of public assistance (if none is due, enter "zero").

section:

ADMINISTRATIVE DETERMINATION
OF A SUPPORT AMOUNT

subject:

Filing Abstracts of Final
Administrative Orders

14 Enter the monthly amount at which the reimbursement amount is to be repaid (if none is due, enter "zero").

15 Enter the date on which repayment is to commence.

16 Enter the day of the month the repayment amount is due.

NOTE: Any special provisions contained in the Decision and Order should be added at this point as new paragraph 5.

.CSEP Manager 17 Enter the current date.

18 Sign your name.

19 Affix the Department of Revenue seal.

section:
ADMINISTRATIVE DETERMINATION
OF A SUPPORT AMOUNT

subject:
Filing Abstracts of Final
Administrative Order

CS-404.8B
(Rev. 4/86)

IN THE DISTRICT COURT OF THE
JUDICIAL DISTRICT OF THE STATE OF MONTANA
IN AND FOR THE COUNTY OF

STATE OF MONTANA, acting by
and through the DEPARTMENT
OF REVENUE ex rel.

Plaintiff,

-vs-

Defendant.

P R A E C I P E

TO THE CLERK OF THE DISTRICT COURT:

In accordance with the provisions of

and Montana Rules of
Civil Procedure you are requested to file under a new cause number
and note in the Judgement Docket the attached

for the filing of the
judgment entered in the above entitled cause in favor of the above-
named Plaintiff and against the above-named Defendant. Please file
both documents under the same cause number.

DATED this _____ day of _____, 19 ____.

MONTANA DEPARTMENT OF REVENUE
John LaFaver
Director of Revenue

By: _____
Child Support Enforcement Program

Please certify _____ copy(ies)
and return to:

NAME: _____
ADDRESS: Department of Revenue
Child Support Enforcement Program
P.O. Box 5955
Helena, MT 59604

		CS 404.8
section: ADMINISTRATIVE DETERMINATION OF A SUPPORT AMOUNT	subject: Filing Abstracts of Final Administrative Orders	

INSTRUCTIONS:

Responsibility	Call Out Number	ACTION
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CS-404.8B, "PRAECIPE"--Used to instruct the clerk of the District Court to file a CS-404.8A, "Abstract of Final Administrative Order", a CS-53, "Warrant for Distrainment", or both.

.Hearings
Assistant

- 1 Enter the appropriate Judicial District number.
- 2 Enter the name of the county in which the document is to be filed.
- 3 Enter the name of the obligee.
- 4 Enter the name of the obligor.
- 5 Enter the section(s) of Montana law under which the filing is authorized:
 - For an Abstract, enter: "Section 40-5-227, MCA"
 - For a Warrant, enter: "Section 40-5-241, MCA"
- 6 Enter, as appropriate:
 - "Abstract of Final Administrative Order No. [enter the Decision and Order number]"
 - Warrant for Distrainment No. CSE" [the Warrant number is entered by the CSEP Manager]

If a Warrant for Distrainment is to be filed, enter the Warrant number.

.Program
Manager

- 7 Enter the current date.

- 8 Sign your name.

.Hearings
Assisant

- 9 Enter the number of copies to be certified (usually 1).

- 10 Enter your name.

Department of Revenue	section: ADMINISTRATIVE DETERMINATION OF A SUPPORT AMOUNT
CHILD SUPPORT ENFORCEMENT	subject: CS-580 "Stipulation and Petition for Entry of Consent Order"

POLICY:

At any time after issuance of a "Notice of Support Debt", a "Notice of Support Liability", or a "Notice of Support Debt and Liability" ("Notice"), or at certain other times, an Investigator may enter into an agreement with the obligor, settling the issues in the case. The agreement should be reduced to a "Stipulation and Petition for Entry of Consent Order" ("Stipulation") and submitted to the Hearings Officer for adoption as a consent order.

PROCEDURE:

Responsibility

ACTION

PREPARATION AND ISSUANCE OF A "STIPULATION AND PETITION FOR ENTRY OF CONSENT ORDER"

Investigator

1. Negotiates an agreement with the obligor, explains the Department's position, claims, evidence, and procedures, advises the obligor of his rights and responsibilities, and answers the obligor's questions regarding provisions of the "Stipulation" as follows:

- a. Heading - Identifies the "Stipulation" as part of the case in which the "Notice" was issued.

The opening paragraph provides that the agreement is a contract, that it shall be used to petition the Hearings Officer for his order, and that the agreement is full and final settlement of all issues in the case.

- b. Paragraph 1 - Names the child(ren) and acknowledges the obligor's duty to support.
- c. Paragraph 2 - Establishes the Department's right to enforce the support obligation(s)

section:
ADMINISTRATIVE DETERMINATION
OF A SUPPORT AMOUNT

subject: CS-580
"Stipulation and Petition
for Entry of Consent Order"

pursuant to an assignment of rights to support (AFDC) or an application for enforcement services (NAFDC). The obligor is also advised that, if spousal support is due under the court order it is enforceable as part of the agreement.

- d. Paragraph 3 - Acknowledges the support arrearage (if any). [See the detailed instructions and samples that follow.]
- e. Paragraph 4 - Acknowledges ongoing support provisions (if any). [See the detailed instructions and samples that follow.]
- f. Paragraph 5 - Sets forth special payment arrangements (if any). [See the detailed instructions and samples that follow.]
- g. Paragraph 6 - Acknowledges the obligor's duty to provide health insurance coverage for the child(ren).
- h. Paragraph 7 - Acknowledges interest due and waives it so long as the obligor is not in default.
- i. Paragraph 8 - Advises the obligor of the consequences of a default.
- j. Paragraph 9 - Provides for reevaluation of the rate of payment, and limits reevaluation to specified intervals or whenever there is a change in the obligor's financial circumstances. Makes failure to cooperate a default.
- k. Paragraph 10 - Makes failure to notify the department of changes a default.
- l. Paragraph 11 - Provides for automatic forfeiture of income tax refunds.

section:
ADMINISTRATIVE DETERMINATION
OF A SUPPORT AMOUNT

subject: CS-580
"Stipulation and Petition
for Entry of Consent Order"

- m. Paragraph 12 - Makes special provision to secure performance (if necessary). [See the detailed instructions and samples that follow.]
- n. Signatures and Verification - Guarantees the obligor's informed consent.
- o. Decision and Order - Reduces the "Stipulation" to a consent order.

2. Prepares materials for typing:

- a. If obligor is present, completes form CS-580 "Stipulation" to correctly reflect the negotiated agreement. [See the detailed instructions and sample that follow.]
- b. If the obligor is not present, completes form CS-580 "Stipulation" [See the detailed instructions and sample that follow.] and a cover letter to explain the material and give special instructions to the obligor.

.Typist

3. Prepares form CS-580 "Stipulation" according to instructions from the Investigator and, if applicable, types the cover letter and prepares envelopes.

.Investigator

4. Obtains necessary signatures for execution of the document:
- a. If obligor is present, signs and dates the CS-580 "Stipulation" in the line labeled "by" and has obligor sign the "Stipulation" and "Verification" on lines labeled "Defendant", in the presence of a Notary Public.
 - b. If the obligor is not present, signs cover letter, mails original form CS-580 "Stipulation" and cover letter to obligor, places copies of form CS-580 "Stipulation" and cover letter in case file, makes appropriate

section:
ADMINISTRATIVE DETERMINATION
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"Stipulation and Petition
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notes in case record, and diaries for
follow-up on the 10th working day. [Skip to
step 6.]

- .Notary Public 5. Notarizes obligor's signature.
- .Investigator 6. Makes copies of signed form CS-580 "Stipulation", places in file, makes appropriate case notes, diaries for return within 10 working days, and mails original signed, notarized form CS-580 "Stipulation" to Helena Child Support Enforcement Program office.
- .Hearings Assistant 8. Logs receipt of the form CS-580 "Stipulation" and assigns a Decision and Order Number to the latter.
- .Hearings Officer 11. Reviews and, if acceptable, signs form CS-580 "Stipulation", causing it to be reduced to a consent order.
- .Hearings Assistant 12. Signs "Certificate of Mailing" and makes copies of form CS-580 "Stipulation" for all parties and, if applicable, their Attorneys.
- 13. Files original form CS-580 "Stipulation".
- 14. Mails copies of form CS-580 "Stipulation" to all parties and, if applicable, to their Attorneys.
- .Investigator 15. Reviews copy of from CS-580 "Stipulation" and, if signed by the Hearings Officer, places in case file with appropriate case notes.
- 17. Prepares form CS-53 "Warrant for Distrainment", if applicable, for typing. [See Section CS 503.7]

SEE FOLLOWING PAGES FOR INSTRUCTIONS AND SAMPLES.

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section:
ADMINISTRATIVE DETERMINATION
OF A SUPPORT AMOUNT

subject: CS-580
"Stipulation and Petition
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A (5d1) order was entered after AFDC was paid to or for the benefit of Defendant's child(ren). Defendant acknowledges failure or partial failure to pay such child support and spousal support (if appropriate). Defendant has paid a total of \$ (5d4), and the sum of \$ (5d5) is owed under the order for the period from (5d6).

Defendant hereby authorizes entry of an administrative judgement for the amounts of the AFDC liability and court-ordered delinquency in the sum of \$ (5d7).

3E For the time period from (5e1), public assistance in the form of Aid to Families with Dependent Children (AFDC) in the amount of \$ (5e2) was paid to or for the benefit of the Defendant's child(ren). Defendant acknowledges that, in the absence of a court-ordered support obligation, the payment of AFDC creates a debt due and owing to the State of Montana in an amount equal to the amount of AFDC paid (Sections 40-5-221, and 53-4-248, MCA). The Department, having administratively determined that Defendant's ability to pay support is insufficient to fully discharge the AFDC liability, agrees to accept \$ (5e3) per month for a total of \$ (5e4), in full and final satisfaction of Defendant's obligation.

A (5e5) order was entered after AFDC was paid to or for the benefit of Defendant's child(ren). Defendant acknowledges failure or partial failure to pay court-ordered child support and spousal support (if appropriate). Defendant has paid a total of \$ (5e6), and the sum of \$ (5e7) is owed under the order for the period from (5e8).

Defendant hereby authorizes entry of an administrative judgement for the amounts of the AFDC liability and court-ordered delinquency in the sum of \$ (5e9).

3F Defendant hereby admits to owing the sum of \$ (5f1) for unpaid child support and spousal support (if appropriate) which the Defendant was to have paid by judgement, decree, or order of a court of competent jurisdiction, which represents \$ (5f2) owed the Department during the time period from (5f3) while AFDC was paid to or for the benefit of Defendant's child(ren), plus \$ (5f4) owed the custodial relative for other time periods prior to the date of this agreement. Defendant hereby authorizes entry of an administrative judgement in such amount.

3G Defendant hereby admits to owing the sum of \$ (5g1) for unpaid child support and spousal support (if appropriate) which represents \$ (5g2) owed the Department as the result of the payment of public assistance in the form of Aid to Families with Dependent Children (AFDC) paid to or for the benefit of Defendant's child(ren) in the absence of a court-ordered support obligation which creates a debt pursuant to Sections 40-5-221 and 53-4-248, MCA, in the amount of AFDC paid; plus \$ (5g3), the amount Defendant was to have paid by judgement, decree, or order of a court of competent jurisdiction during the time period from (5g4); plus \$ (5g5) owed the custodial relative for other time periods prior to the date of this agreement. Defendant hereby authorizes entry of an administrative judgement in such amount.

6a 4A Current support payments required by judgement, decree, or order of a court of competent jurisdiction are not currently being enforced or collected by the Department. This Stipulation and Petition for Entry of Consent Order is for the collection of a support arrearage debt only. Defendant understands that current support shall be paid as required by the court order, and such obligation is not affected by this agreement or the subsequent consent order.

4B Defendant acknowledges an ongoing child support obligation pursuant to a judgement, decree, or order of a court of competent jurisdiction in the amount of \$ (6b1) per (6b2). If appropriate, Defendant further acknowledges an ongoing spousal support order in the amount of \$ (6b3) per (6b4). Defendant hereby authorizes the ongoing obligations to be incorporated into the administrative consent order and thereby be made enforceable as a material part of such order. Defendant understands that failure to pay ongoing support when due may be deemed a default under this agreement and the subsequent consent order.

section:
ADMINISTRATIVE DETERMINATION
OF A SUPPORT AMOUNT

subject: CS-580
"Stipulation and Petition
for Entry of Consent Order"

4C There are no court judgments, decrees, or orders in effect which require the Defendant to pay ongoing support for the above named child(ren). Defendant agrees to entry of an administrative consent order requiring Defendant to pay the amount of \$ (6c1) per month for the support of such child(ren). These payments are to commence (6c2), and shall continue on the same day of each and every month thereafter.

Upon the docketing of a certified copy of the subsequent consent order in a District Court, the payments shall continue until the child(ren) attain the age of majority, are otherwise emancipated, or until the consent order is superceded by subsequent District Court order. In the event of entry of a superceding court order prior to or after docketing, Defendant shall pay the court-ordered amount instead of the amount of current support set forth originally in the consent order, which amount shall be automatically incorporated herein by reference.

At such time as notified that the Department is no longer collecting ongoing support, Defendant shall pay this amount directly to the custodial relative or, if directed to do so by District Court order, to the Clerk of the appropriate court. Until notified that the Department is no longer collecting support in this case, failure by the Defendant to pay ongoing support when due may be deemed a default of the consent order.

4D There are no court judgments, decrees, or orders in effect which require the Defendant to pay ongoing support for the above named child(ren). Defendant agrees to entry of an administrative consent order requiring Defendant to pay the amount of \$ (6d1) per month or the amount of AFDC benefits actually paid to or for the benefit of Defendant's child(ren), whichever is less, for the support of such child(ren). These payments are to commence (6d2), and shall continue on the same day of each and every month thereafter until the consent order is superceded by subsequent District Court order or AFDC benefits are no longer paid to or for the benefit of the Defendant's child(ren), whichever occurs first. Upon entry of a superceding court order, Defendant shall pay the court-ordered amount instead of the amount of current support set forth originally in the consent order, which amount shall be automatically incorporated herein by reference.

Until notified that the Department is no longer collecting support in this case, failure by the Defendant to pay ongoing support when due may be deemed a default of the consent order.

5A Defendant is able and agrees to make payments in satisfaction of the foregoing debt at the rate of \$ (7a1) per month commencing (7a2) and continuing on the same day of each and every month thereafter until the entire debt is paid in full. These payments are in addition to any obligation the Defendant may have for ongoing or future support. Failure to comply with any of the provisions of this paragraph may constitute a default under this agreement or the subsequent consent order.

(7b) 5B Defendant is unemployed and receiving unemployment insurance benefits under Montana Law. In whole or partial fulfillment of the child support obligation or obligations acknowledged in paragraphs 3 and 4 above, the Defendant hereby agrees to assign 25% of his unemployment insurance benefits payable through the Montana Department of Labor and Industry to the Montana Department of Revenue, Child Support Enforcement Program. The assignment shall be effective at any and all times Defendant receives unemployment insurance benefits, and shall continue so long as Defendant owes a child support obligation as acknowledged in paragraphs 3 and 4 above, or until this agreement is amended or terminated by written agreement of the parties.

Defendant's child support obligation or obligations will continue to accrue at the rate or rates set forth in paragraphs 3 and 4 above. At such time as Defendant obtains employment, the payment provisions of this agreement become effective as set forth in paragraphs 3 and 4 above. The Defendant agrees to contact the Department immediately upon obtaining employment. Failure to comply with any of the provisions of this paragraph may constitute a default under this agreement and the subsequent consent order, and the Department may, thereafter, at its option, intercept or garnish Defendant's unemployment insur-

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section:
ADMINISTRATIVE DETERMINATION
OF A SUPPORT AMOUNT

subject: CS-580
"Stipulation and Petition
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ance benefits at the rate of 50% to 65%.

5C Defendant is unemployed and receiving unemployment insurance benefits under Montana law. In partial fulfillment of the child support obligation or obligations acknowledged in paragraphs 3 and 4 above, the Defendant agrees to pay the sum of \$ 7c1 per 7c2 commencing 7c3 and continuing the same day of each and every 7c4 thereafter, so long as Defendant is unemployed.

The Defendant's child support obligation or obligations will continue to accrue at the rate or rates set forth in paragraphs 3 and 4 above. At such time as Defendant obtains employment, the payment provisions of this paragraph will terminate, and the Defendant will pay his child support obligation or obligations as set forth in paragraphs 3 and 4 above. The Defendant agrees to contact the Department immediately upon obtaining employment. Failure to comply with any of the provisions of this paragraph may constitute a default under this agreement and the subsequent consent order, and the Department may, thereafter, at its option, intercept or garnish Defendant's unemployment insurance benefits at the rate of 50% to 65%.

5D Defendant is unemployed and is not receiving unemployment insurance benefits, but agrees to pay the sum of \$ 7d1 per 7d2 in partial fulfillment of the child support obligation or obligations acknowledged in paragraphs 3 and 4 above. Such payments will commence 7d3 and continue the same day of each and every 7d4 thereafter, so long as Defendant is unemployed.

The Defendant's child support obligation or obligations will continue to accrue at the rate or rates set forth in paragraphs 3 and 4 above. At such time as Defendant obtains employment or his financial situation otherwise improves, the payment provisions of this paragraph will terminate, and the Defendant will pay his child support obligation or obligations as set forth in paragraphs 3 and 4 above. The Defendant agrees to contact the Department within ten (10) days after obtaining employment, receiving unemployment insurance benefits, or if Defendant's financial situation otherwise improves. Failure to comply with any of the provisions of this paragraph may constitute a default under this agreement or the subsequent consent order.

7e 5E Defendant is unemployed and is not receiving unemployment insurance benefits. Defendant is not capable of making any payments toward the child support obligation or obligations acknowledged in paragraphs 3 and 4 above. No payments shall be due so long as the Defendant is unemployed and not in default under this agreement and the subsequent consent order.

The Defendant's child support obligation or obligations will continue to accrue at the rate or rates set forth in paragraphs 3 and 4 above. At such time as Defendant obtains employment or his financial situation otherwise improves, Defendant will pay his child support obligation or obligations as set forth in paragraphs 3 and 4 above. The Defendant agrees to contact the Department within ten (10) days after obtaining employment or receiving unemployment insurance benefits. Failure to comply with any of the provisions of this paragraph may constitute a default under this agreement or the subsequent consent order.

5F The Department has determined that Defendant's income is insufficient to pay the full amount of the child support obligation or obligations acknowledged in paragraphs 3 and 4 above, but that Defendant is able to pay the sum of \$ 7f1 per 7f2 in partial satisfaction of his obligation. Such payments will commence 7f3 and continue the same day of each and every 7f4 thereafter until such time as Defendant's financial circumstances improve. Defendant will contact the Department on or before 7f5, and every 7f6 months thereafter to report a change in financial or employment status and complete an affidavit if necessary. Defendant's rate of payment will be reevaluated in accordance with ARS, Sections 42.6.101, et seq. each time an affidavit is submitted to the Department.

Defendant's child support obligation or obligations will continue to accrue at the rate or rates set forth in paragraphs 3 and 4 above. Failure to comply with any of the provisions of this paragraph may constitute a default under this

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section:
ADMINISTRATIVE DETERMINATION
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agreement or the subsequent consent order.

5G The Department has determined that Defendant's income is insufficient to pay the child support obligation or obligations acknowledged in paragraphs 3 and 4 above. No payment shall be due so long as Defendant contacts the Department on or before the 7g1 and every 7g2 months thereafter to report changes in financial or employment status and to complete an affidavit if necessary. Defendant's rate of payment will be reevaluated in accordance with ARN, Sections 42.6.101, et. seq. each time an affidavit is submitted to the Department.

Defendant's child support obligation or obligations will continue to accrue at the rate or rates set forth in paragraphs 3 and 4 above. Failure to comply with any of the provisions of this paragraph may constitute a default under this agreement or the subsequent consent order.

5H The Department agrees to accept the sum of \$ 7h1 in full and final satisfaction of the child support 7h2 acknowledged in paragraph 3 above, if paid on or before 7h3. Failure to pay such amount on or before the date specified may result in a default under this agreement and the subsequent consent order, and the entire amount acknowledged will become due and payable, with interest, without further notice.

5I The Department agrees to accept the reduced sum of \$ 7i1 payable in regular installments of \$ 7i2 commencing 7i3 and continuing the same day of each and every 7i4 thereafter in full and final satisfaction of the child support 7i5 acknowledged in paragraph 3 above. Failure to pay the installments specified on or before the date specified may result in a default under this agreement and the subsequent consent order, and the entire amount acknowledged will become due and payable, with interest, without further notice.

5J The Department agrees to accept the sum of \$ 7j1 if paid on or before 7j2 plus the sum of \$ 7j3 payable in regular installments of \$ 7j4 commencing 7j5 and continuing the same day of each and every 7j6 thereafter in full and final satisfaction of the child support 7j7 acknowledged in paragraph 3 above. Failure to pay the installments specified on or before the date specified may result in a default under this agreement and the subsequent consent order, and the entire amount acknowledged will become due and payable, with interest, without further notice.

5K The Department agrees to accept the sum of \$ 7k1 payable in regular installments of \$ 7k2 commencing 7k3 and continuing the same day of each and every 7k4 thereafter, until 7k5 when the sum of \$ 7k6 shall be due in full and final satisfaction of the child support 7k7 acknowledged in paragraph 3 above. Failure to pay the installments specified on or before the date specified may result in a default under this agreement and the subsequent consent order, and the entire amount acknowledged will become due and payable, with interest, without further notice.

⑦1 5L Since no support arrearage is owed to the Department, no provision for payment on any support arrearage is made part of this agreement.

6. Defendant agrees to provide third-party health-care coverage for the children named in paragraph 1 above at any and all times such coverage is available at reasonable cost.

7. The support debt admitted herein and set forth in the consent order shall bear interest at the rate of ten percent (10%) per annum. The Department agrees to waive this interest and accumulated past interest for so long as Defendant is not in default of this agreement or the subsequent consent order.

8. Upon default of any terms of this agreement or the subsequent consent order, the entire unpaid balance of the support debt, including interest, becomes immediately due and payable. The Department may, at its option and without further notice, immediately proceed to utilize any means or remedy available under the

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section:
ADMINISTRATIVE DETERMINATION
OF A SUPPORT AMOUNT

subject: CS-580
"Stipulation and Petition
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law to collect the debt including but not limited to: garnishment of wages, distraint of property, and seizure and sale of property. The Department may waive any default without waiving any subsequent default. When a default in ongoing support is waived, the delinquent amount shall be added to the support debt and become part of the administrative judgement without further order of the Hearings Officer.

9. Upon written notice to the Defendant, the rate of payment towards satisfaction of the support arrearage debt or ongoing child support obligation (if appropriate), may be reevaluated after (8) and every (9) months thereafter, or in the alternative, whenever there has been a change in the Defendant's employment or financial situation. Unless otherwise agreed by the parties, the rate of payment will be determined in accordance with ARS Sections 42.6.101 through 42.6.106.

Failure to respond, or to provide information necessary for reevaluation within ten (10) days of the date of the notice will constitute a default under this agreement and the subsequent consent order.

10. Defendant will notify the Department at (10) of any change in address or employment. Failure to do so within ten (10) days after the date of such change will constitute a default.
11. Defendant agrees that any and all State and Federal income tax refunds due while this agreement and the subsequent consent order are in effect will be forfeited to and collected by the Department to be applied to the support arrearage acknowledged in paragraph 3 above, or under accruing under paragraph 4 above. The collection of any tax refund does not, at any time, reduce the monthly payments due under this agreement or the subsequent consent order.

- 12A In order to secure performance under this agreement, Defendant agrees to execute the necessary documents to allow the Department to perfect a security interest pursuant to the Uniform Commercial Code (Title 30, Chapter 9, MCA) on the following property:

(11a)

The security interest shall remain effective so long as Defendant owes a child support obligation as acknowledged in paragraphs 3 and 4 above. Failure to comply with the provisions of this paragraph will constitute a default under this agreement and the subsequent consent order.

Upon any default under this agreement after perfection of the security interest, the Department shall be entitled to take possession of the property or exercise the rights granted in Sections 30-9-501, MCA, et seq., subject only to the requirements of the law.

- 12B In order to secure performance under this agreement, Defendant agrees to execute the necessary documents to allow the Department to perfect a security interest and lien in the following:

(11b)

Defendant will deliver the title to the above-described property to the Department at the address listed in paragraph 9 above within ten (10) days of the date of this agreement for forwarding to the registrar of motor vehicles for entry of the Department's name thereon as a lien holder. The security interest and lien shall remain in effect so long as Defendant owes a child support obligation as acknowledged in paragraphs 3 and 4 above. Failure to comply with the provisions of this paragraph will constitute a default under this agreement and the subsequent consent order.

Upon any default under this agreement after perfection of the security interest, the Department shall be entitled to take possession of the property or exercise the rights granted in Sections 30-9-501, MCA, et seq., subject only to the

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requirements of law.

12C In order to fulfill the child support obligation or obligations acknowledged in paragraphs 3 and 4 above, Defendant agrees to execute a voluntary wage assignment in the amount of \$ (11c1) per (11c2) effective (11c3) and continuing at any and all times Defendant is employed, so long as Defendant owes a support obligation as acknowledged in paragraphs 3 and 4 above. In the event Defendant's employment changes, Defendant will contact the Department at the address listed in paragraph 9 above within ten (10) days to execute a new wage assignment. Failure to comply with any of the provisions of this paragraph will constitute a default under this agreement and the subsequent consent order.

12D In order to secure performance under this agreement, Defendant agrees to execute a voluntary wage assignment in the amount of \$ (11d1) per (11d2) effective (11d3). So long as Defendant makes payments as agreed above, the Department agrees to hold such wage assignment in abeyance. In the event Defendant fails to make payments as agreed, this wage assignment will immediately be delivered to Defendant's employer and become effective so long as Defendant owes a support obligation as acknowledged in paragraphs 3 and 4 above.

In the event Defendant's employment changes, Defendant will contact the Department at the address listed in paragraph 9 above within ten (10) days to execute a new wage assignment. Failure to comply with any of the provisions of this paragraph will constitute a default under this agreement and the subsequent consent order.

(AFDC-END)

All payments required under this agreement will be made to: MONTANA DEPARTMENT OF REVENUE, Child Support Enforcement Program, P.O. Box 3955, Helena, Montana 59604.

DATED this ____ day of (12), 19__.

Department of Revenue
Child Support Enforcement Program

Defendant

by: (16) (14)

VERIFICATION

THE DEFENDANT, having been duly sworn deposes and says:

I have read the foregoing petition and signed it with full knowledge of the facts, terms and conditions therein. In doing so, I understand that I am waiving all rights to a formal hearing including the right to confront and cross-examine witnesses against me, and the right to have all alleged facts proven by a preponderance of the evidence. I understand that the consent order entered pursuant to this petition will result in the filing of a Warrant for Distraint which will become a lien upon my real and personal property. I understand that any support arrearage accrued or accruing pursuant to the foregoing agreement and subsequent consent order shall be submitted for collection under the state and federal income tax intercept programs whenever the amount owed qualifies for such programs. I understand that interception of any tax refund does not alter any payment provisions of the foregoing agreement or subsequent consent order. I further understand that in the event I default or fail to comply with the terms of the agreement or subsequent consent order that my property and income may be subject to seizure or garnishment without further notice to me.

I understand that the foregoing petition settles the claims of the Department only, and does not settle any claims by the custodial relative, child(ren), or any other persons who may have an interest in any of the matters addressed herein, and who are not represented by the Department.

I have not signed this petition under duress or as a result of promises which are not included herein. I have been informed of my right to consult an attorney before

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signing this petition and understand that the Department does not represent me in this matter.

(18)
Defendant

SUBSCRIBED and SWORN before me this ____ day of (19) ____, 19__.

(20)
NOTARY PUBLIC for the State of Montana
Residing at: (21)
My Commission Expires: (22)

DECISION AND ORDER

The Defendant, (23) ____, having appeared herein, having submitted to the jurisdiction of the Department of Revenue, and in consideration of actual promises made between the parties, a written stipulation has been entered into as settlement of all issues and claims between the parties. Now the Hearing Officer for the Department of Revenue, Child Support Enforcement Program, being fully advised in the premises, and good cause appearing now makes the following consent order, disposing of the contested case:

FINDINGS OF FACT

The parties have mutually agreed upon the facts, terms and conditions of the stipulated agreement and their signatures are affixed thereto.

The Defendant appears to have entered into the stipulated agreement being fully advised of his rights. The Defendant has voluntarily waived his rights to notice, hearing, and to have the facts proved beyond a reasonable doubt. Defendant did so after having an opportunity to be represented by legal counsel.

CONCLUSIONS OF LAW

The terms, conditions and provisions of the stipulated agreement are not unreasonable.

The Defendant made an informed and knowing waiver of his rights.

From the foregoing,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

1. That the stipulated agreement between the parties be, and hereby is confirmed, approved and made a part of this order, and is included herein by reference;
2. That the parties are hereby ordered to consummate and perform all terms and conditions of said stipulation as set forth herein;
3. That this order is in full settlement of all claims, demands, and issues before the Hearing Officer.

NOTICE: Pursuant to Section 2-4-702(2)(a), MCA, if the Defendant is aggrieved by this decision, he may file a Petition for Judicial Review in District Court within thirty (30) days after service of this decision.

Dated this ____ day of (24) ____, 19__.

(25)
J. Robert Chilton
Hearings Officer

section:
ADMINISTRATIVE DETERMINATION
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CERTIFICATE OF MAILING

This is to certify that I, one of the legal unit administrative staff, did
serve by prepaid mail on the ____ day of (26) 19__, a true and
correct copy of the foregoing Stipulation and Petition for Entry of Consent Order
to the following:

Child Support Enforcement Program
P.O. Box 5955
Helena, MT 59604

____ (27) ____
____ (28) ____
____ (29) ____
Investigator
____ (30) ____

(31)
CHILD SUPPORT ENFORCEMENT PROGRAM

(NADC-END)

All payments required under this agreement will be made to: MONTANA DEPARTMENT
OF REVENUE, Child Support Enforcement Program, P.O. Box 5955, Helena, Montana 59604.

DATED this ____ day of (12) 19__.

Custodial Relative

Defendant

____ (13) ____ (14) (15)
SSN: ____

Reviewed and Approved by: ____ (16) ____
Title: ____ (17) ____
Child Support Enforcement Program

VERIFICATION

THE DEFENDANT, having been duly sworn deposes and says:

I have read the foregoing petition and signed it with full knowledge of the
facts, terms and conditions therein. In doing so, I understand that I am waiving
all rights to a formal hearing including the right to confront and cross-examine
witnesses against me, and the right to have all alleged facts proven by a preponder-
ance of the evidence. I understand that the consent order entered pursuant to this
petition will result in the filing of a Warrant for Distraint which will become a lien
upon my real and personal property. I understand that any support arrearage accrued
or accruing pursuant to the foregoing agreement and the subsequent consent order shall
be submitted for collection under the state and federal income tax intercept programs
whenever the amount owed qualifies for such programs. I understand that interception

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of any tax refund does not alter any payment provisions of the foregoing agreement and the subsequent consent order. I further understand that in the event I default or fail to comply with the terms of the current order that my property and income may be subject to seizure, sale, or garnishment without further notice to me.

I understand that the foregoing petition settles the claims of the parties whose signatures appear above, and does not settle any claims by any other persons who may have an interest in any of the matters addressed herein, and who are not represented by the Department.

I have not signed this petition under duress or as a result of promises which are not included herein. I have been informed of my right to consult an attorney before signing this petition and understand that the Department does not represent me in this matter.

(18)

Defendant

SUBSCRIBED and SWORN before me this ____ day of (19) ____, 19__.

(20)

NOTARY PUBLIC for the State of Montana
Residing at: (21) ____
My Commission Expires: (22) ____

DECISION AND ORDER

The Defendant, (23) ____, having appeared herein, having submitted to the jurisdiction of the Department of Revenue, and in consideration of mutual promises made between the parties, a written stipulation has been entered into as settlement of all issues and claims between the parties. Now the Hearing Officer for the Department of Revenue, Child Support Enforcement Program, being fully advised in the premises, and good cause appearing now makes the following consent order, disposing of the contested case:

FINDINGS OF FACT

The parties have mutually agreed upon the facts, terms and conditions of the stipulated agreement and their signatures are affixed thereto.

The Defendant appears to have entered into the stipulated agreement being fully advised of his rights. The Defendant has voluntarily waived his rights to notice, hearing, and to have the facts proved beyond a reasonable doubt. Defendant did so after having an opportunity to be represented by legal counsel.

CONCLUSIONS OF LAW

The terms, conditions and provisions of the stipulated agreement are not unconscionable.

The Defendant made an informed and knowing waiver of his rights.

From the foregoing,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

1. That the stipulated agreement between the parties be, and hereby is confirmed, approved and made a part of this order, and is included herein by reference;

2. That the parties are hereby ordered to consummate and perform all terms and conditions of said stipulation as set forth herein;

section:
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3. That this order is in full settlement of all claims, demands, and issues before the Hearing Officer.

NOTICE: Pursuant to Section 2-4-702(2)(a), NCA, if the Defendant is aggrieved by this decision, he may file a Petition for Judicial Review in District Court within thirty (30) days after service of this decision.

Dated this _____ day of (24), 19__.

(25)
 J. Robert Chilton
 Hearings Officer

CERTIFICATE OF MAILING

This is to certify that I, one of the legal unit administrative staff, did serve by prepaid mail on the _____ day of (26), 19__, a true and correct copy of the foregoing Stipulation and Petition for Entry of Consent Order to the following:

Child Support Enforcement Program
 P.O. Box 5955
 Helena, MT 59604

(27)

(28)

(28)

(28)

(29)
 Investigator
(30)

(31)
 CHILD SUPPORT ENFORCEMENT PROGRAM

section:
ADMINISTRATIVE DETERMINATION
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INSTRUCTIONS FOR THE PREPARATION OF THE CS-580
"STIPULATION AND PETITION FOR ENTRY OF CONSENT
ORDER"

Responsibility	Call Number	ACTION
.Investigator	①	Enter the number of the "Notice of Support Debt, Liability, or Debt and Liability".
	②	Enter the recipient's (AFDC) or Applicant's (NAFDC) full name.
	③	Enter the obligor's full name.
	④	Enter the name(s) of the child(ren) of the parties.
	⑤	a. If the obligor owes a support debt, but not a support liability, utilize this paragraph and indicate the following information: 1) Enter the total amount of the obligation owed under the order which has been assigned to the department. 2) Enter the dates AFDC was received by the children (example: "January 1, 1980 through May 31, 1983"). b. If the obligor owes a support liability, but not a support debt, utilize this paragraph. The cost of paternity blood tests can also be added if appropriate. Indicate the following information: 1) Enter the dates AFDC was received by the children (see 5a. 2, above). 2) Enter the total AFDC liability amount accumulated during the period AFDC was received. 3) If appropriate, enter the following sentence: "Defendant also acknowledges

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owing \$_____ for the cost of paternity
blood testing." and fill in the amount
agreed upon.

4) Enter the total amount paid by the
obligor against the liability.

5) Enter the net amount due (total liability
minus payment made).

c. If the obligor owes a support liability
which is reduced pursuant to an adminis-
trative determination, utilize this para-
graph and indicate the following infor-
mation:

1) Enter the dates AFDC was received by the
children (see 5a. 2, above).

2) Enter the total AFDC liability amount
accumulated during the period AFDC was
received.

3) Enter the monthly amount to be paid
according to the administrative determin-
ation.

4) Enter the total amount to be paid under
the administrative determination.

d. If the obligor owes both a support debt and
a support liability, utilize this paragraph
and indicate the following information:

1) Enter the dates AFDC was received by the
children (see 5a. 2, above).

2) Enter the total AFDC liability amount
accumulated during the period AFDC was
received.

3) Indicate whether the support debt
accumulated pursuant to a court order or an

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administrative order.

4) Enter the total amount paid to date by the obligor on the support debt.

5) Enter the total arrearage amount remaining under the order.

6) Enter the dates during which the arrearage accumulated (see 5a. 2, above).

7) Enter the total debt and liability amount.

e. If the obligor owes a support debt and a support liability which is reduced pursuant to an administrative determination, utilize this paragraph and indicate the following information:

1) Enter the dates AFDC was received by the children (see 5a. 2, above).

2) Enter the total AFDC liability amount accumulated during the period AFDC was received.

3) Enter the monthly amount to be paid according to the administrative determination.

4) Enter the total amount to be paid under the administrative determination.

5) Indicate whether the support debt accumulated pursuant to a court order or an administrative order.

6) Enter the total amount paid to date by the obligor on the support debt.

7) Enter the total arrearage amount remaining under the order.

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8) Enter the dates during which the arrearage accumulated (see 5a. 2, above).

9) Enter the total debt and liability amount.

.(NAFDC Unit only) f. If the obligor owes a support debt to the state and the NAFDC Unit is entering into the stipulated agreement on behalf of the custodial relative, utilize this paragraph and indicate the following information:

1) Enter the total amount owed by the obligor.

2) Enter the amount owed to the department.

3) Enter the dates AFDC was received by the children (see 5a. 2, above).

4) Enter the amount owed to the custodial relative (total amount owed minus amount owed to the department).

.(NAFDC Unit only) g. If the obligor owes a support liability and a support debt to the state, and the NAFDC Unit is entering into the stipulated agreement on behalf of the custodial relative, utilize this paragraph and indicate the following information:

1) Enter the total amount owed by the obligor.

2) Enter the total AFDC liability amount accumulated during the period AFDC was received.

3) Enter the amount of the debt assigned to the department as a result of the receipt of AFDC.

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4) Enter the dates AFDC was received by the children (see 5a. 2, above).

5) Enter the total amount owed to the custodial relative (total amount owed minus the AFDC liability and the assigned debt).

- ⑥ a. If the department is not enforcing current child support and (if appropriate) spousal support, and the obligor should pay support directly to the custodial relative, utilize this paragraph (no additional information is necessary).
- b. If the obligor should be paying court-ordered current child support and (if appropriate) spousal support to the department, utilize this paragraph and indicate the following information:
- 1) Enter the court-ordered child support obligation amount.
- 2) Indicate whether it should be paid monthly or weekly.
- 3) Enter the court-ordered spousal support amount, if any (if none, enter "0").
- 4) Indicate whether it should be paid monthly or weekly (or "N/A").
- c. If the obligor is to pay current support pursuant to an administrative determination, utilize this paragraph and indicate the following information:
- 1) Enter the administratively determined monthly support obligation amount.
- 2) Enter the date the first payment is to be made.

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d. If the obligor is to pay the department 100% of the AFDC grant as a current support obligation, utilize this paragraph and indicate the following information:

1) Enter the current monthly AFDC grant amount.

2) Enter the date the first payment is to be made.

⑦ a. If the obligor is to pay the arrearage in monthly installments, utilize this paragraph and indicate the following information:

1) Enter the monthly payment amount.

2) Enter the date the first payment is to be made.

b. If the obligor is receiving Unemployment Insurance benefits, and is assigning 25% of his benefits to the department, utilize this paragraph (no additional information is necessary).

c. If the obligor is receiving Unemployment Insurance benefits, and will make reduced payments to the department himself, utilize this paragraph and indicate the following information:

1) Enter the reduced payment amount.

2) Indicate whether it should be paid monthly or weekly.

3) Enter the date the first payment is to be made.

4) Indicate whether succeeding payments should be made weekly or monthly.

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- d. If the obligor is unemployed, not receiving Unemployment Insurance benefits, but will be making reduced payments to the department, utilize this paragraph and indicate the following information:
- 1) Enter the reduced payment amount.
 - 2) Indicate whether it should be paid monthly or weekly.
 - 3) Enter the date the first payment is to be made.
 - 4) Indicate whether succeeding payments should be made weekly or monthly.
- e. If the obligor is unemployed, not receiving Unemployment Insurance benefits, and is unable to make any payments, utilize this paragraph (no additional information is necessary).
- f. If the obligor is to make reduced payments pursuant to an administrative determination, utilize this paragraph and indicate the following information:
- 1) Enter the reduced payment amount.
 - 2) Indicate whether it should be paid monthly or weekly.
 - 3) Enter the date the first payment is to be made.
 - 4) Indicate whether succeeding payments should be made weekly or monthly.
 - 5) Enter the first date the obligor is to report to the department concerning his financial circumstances.

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- 6) Enter the obligor's reporting frequency thereafter (number of months).
- g. If the obligor is unable to make any payments pursuant to an administrative determination, utilize this paragraph and indicate the following information:
- 1) Enter the first date the obligor is to report his financial circumstances to the department.
 - 2) Enter the obligor's reporting frequency thereafter (number of months).
- h. If the obligor's arrears are to be considered paid in full upon payment of a reduced cash lump sum settlement, utilize this paragraph and indicate the following information:
- 1) Enter the lump sum settlement amount.
 - 2) Enter the date by which the lump sum must be paid.
 - 3) Indicate whether the settlement satisfies a support debt, support liability, or both.
- i. If the obligor's arrears are to be considered paid in full upon the regular and timely payment of monthly installments on a reduced lump sum settlement, utilize this paragraph and indicate the following information:
- 1) Enter the total lump sum settlement amount.
 - 2) Enter the amount of each installment.
 - 3) Indicate whether payments should be made monthly or weekly.

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- 4) Enter the date the first payment is to be made.
- 5) Indicate whether the settlement satisfies a support debt, support liability, or both.
- j. If the obligor's arrears are to be considered paid in full upon payment of cash partial lump sum settlement plus regular and timely installments, utilize this paragraph and indicate the following information:
 - 1) Enter the partial lump sum settlement amount.
 - 2) Enter the date by which the partial lump sum must be paid.
 - 3) Enter the total lump sum settlement amount.
 - 4) Enter the amount of each installment.
 - 5) Indicate whether payments should be made monthly or weekly.
 - 6) Enter the date the first payment is to be made.
 - 7) Indicate whether the settlement satisfies a support debt, support liability, or both.
- k. If the obligor's arrears are to be paid in full upon payment of a limited number of installment payments plus a cash lump sum on a specified later date (balloon payment), utilize this paragraph and indicate the following information:
 - 1) Enter the total lump sum settlement amount.

		CS 404.9
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- 2) Enter the amount of each installment.
- 3) Indicate whether payments should be made monthly or weekly.
- 4) Enter the date the first payment is to be made.
- 5) Enter the date the balloon payment must be made.
- 6) Enter the balloon payment amount.
- 7) Indicate whether the settlement satisfies a support debt, support liability, or both.
- 1) If no provision for payment is necessary because no arrearages are owed to the Department, utilize this paragraph (no additional information is necessary).
- ⑧ Enter the first date that the obligor's rate of payment on arrears or current support may be re-evaluated (usually three to six months after signing the stipulation unless circumstances warrant otherwise).
- ⑨ Enter the obligor's reporting frequency thereafter (in number of months).
- ⑩ Enter your office mailing address.
- ⑪ a. If the obligor agrees to accept a Uniform Commercial Code (UCC) lien on property which has no certificate of title (examples: tools of trade, firearms, stereos, etc.) in order to secure compliance with the terms of the agreement, utilize this paragraph and give a description of the property.

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- b. If the obligor agrees to accept a Uniform Commercial Code (UCC) lien on property which is represented by a certificate of title (examples: motor vehicles, boats, trailers, etc.) in order to secure compliance with the terms of the agreement, utilize this paragraph, indicate the type, and give a description of the property.
- c. If the obligor agrees to assign his wages in order to secure compliance with the terms of the agreement, utilize this paragraph and indicate the following information:
- 1) Enter the amount of each payment.
 - 2) Indicate whether payments are to be made monthly or weekly.
 - 3) Enter the effective date of the assignment.
- d. If the obligor agrees to assign his wages in order to secure compliance with the terms of the agreement but wishes the department to hold it in the file until default, utilize this paragraph and indicate the following information:
- 1) Enter the amount of each payment.
 - 2) Indicate whether payments are to be made monthly or weekly.
 - 3) Enter the effective date of the assignment.

.(Custodial
Relative, if
NAFDC)

⑫ Enter the date you are signing the document.

.Obligor

⑬ Sign your name.

⑭ Sign your name.

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- (If NAFDC) (15) Enter your Social Security Number.
- .Investigator (16) Sign your name.
- (If NAFDC) (17) Enter your title.
- .Obligor (18) Sign your name.
- .Notary Public (19) Enter the current date.
- (20) Sign your name.
- (21) Enter your city of residence.
- (22) Enter the expiration date of your commission.
- .Typist (23) Enter the obligor's name.
- .Hearings
Officer (24) Enter the current date.
- (25) Sign your name.
- .Hearings
Assistant (26) Enter the date of mailing.
- .Typist (27) Enter the obligor's name and mailing address.
- (28) Enter the names and address of any other parties
to the action (including attorneys) as indicated
by the Investigator.
- (29) Enter the Investigator's name.
- (30) Enter your office mailing address.
- .Hearings
Assistant (31) Sign your name.

See Memo 11/1/22
See 11/1/22

CS 408.3

Department of Social and
Rehabilitation Service

section:
Civil Enforcement
Administrative

CHILD SUPPORT ENFORCEMENT

subject:
Modifying Support Orders
-- at Parties Request

POLICY:

CSED must process requests from absent parents and custodians for modification of CSED administrative support orders, Montana District Court orders and support orders of courts or administrative agencies of other jurisdictions. Before the CSED can act on a party's request for modification, the following standards apply:

- the support obligation must be inconsistent with the uniform child support guidelines. The inconsistency must equal or exceed the greater of \$25.00 per month or 25% of the existing support obligation.

NOTE -- SUBSEQUENT FAMILIES: A modification request cannot be granted if a reduction in the support obligation is caused by the existence of the absent parent's subsequent family(ies).

- the CSED must be providing IV-D services for the enforcement of current support to the absent parent, custodian or a IV-D agency of another state or jurisdiction.
- no legal barriers (jurisdictional impediments) exist which would prevent the CSED from exercising its jurisdiction to register or modify the existing order.
- in cases where the previous criteria are not met or are not applicable, and no health insurance obligation has previously been ordered, a

CIVIL ENFORCEMENT ADMINISTRATIVE

Modifying Support Orders

-- At Parties Request

modification can be initiated if health insurance is available through the absent parents's employment or union.

NOTE -- Only the Hearing Officer has the authority to find an exception from immediate income withholding.

OVERVIEW:

To obtain a modification of a support order, a party other than the CSED must file a "CS-408.3A" ^{500.2A} "Modification Request", with the appropriate CSED office. The modification request must be accompanied by a complete financial affidavit signed by the requesting party. A CSED caseworker evaluates the request, financial affidavit and asset identification sources available in the regional office. ^{500.2B} The CSED caseworker issues a "CS-408.3B" ^{500.2B} "Notice Concerning Modification Request", for service on all interested parties. If necessary, the CSED caseworker registers the existing support order in accordance with CS 405.15.

If the CSED determination indicates modification is appropriate, each party has 20 working days from the date of service of the notice to request an administrative fair hearing on the proposed modification. The hearing is conducted by the CSED Hearing Officer in accordance with CS 405.7.

CIVIL ENFORCEMENT ADMINISTRATIVE

Modifying Support Orders
-- At Parties Request

PROCEDURE:

Responsibility

ACTION

.Caseworker/
Typist

1. When contacted by a party who indicates a desire to have an existing support order modified, mails to the requesting party a modification packet consisting of:
 - a form CS-408.3A, "Modification Request";
 - a form CS-404.6A, "Financial Affidavit."
 - a form CS-408.1A, "Modification Cover Letter"
2. If the "Modification Request" and "Financial Affidavit" are subsequently returned, the caseworker reviews the forms, the case record, and asset identification sources readily available at the regional office to confirm the income-related information about both parties as alleged by the requesting party.
3. The caseworker determines whether the support order is eligible for modification by applying the following standards:
 - a. the "Modification Request" must be sufficiently complete so the caseworker can determine whether the request meets the other standards. The "Modification Request" and the "Financial Affidavit" constitute the requesting party's claim that a modification is appropriate. If these documents are not signed and notarized, the CSED cannot rely on the information. If there is not sufficient reliable information to

CIVIL ENFORCEMENT ADMINISTRATIVE

Modifying Support Orders

-- At Parties Request

make a determination, the request should be denied.

- b. reviews the case file to determine if any legal barriers (jurisdictional impediments) exist which would prevent the CSED from exercising its jurisdiction to register and modify the existing support order. If such barriers exist, the request should be denied. For example: if any modification action involving these parties is pending elsewhere, the CSED is without jurisdiction to modify. In questionable cases, consult your regional Staff Attorney.
- c. if there is reliable financial information upon which to make a determination, the caseworker calculates a support obligation using the uniform child support guidelines at CS 404.1. The calculation should be based on information from the "Modification Request", "Financial Affidavit", case record and asset identification sources readily available in the regional office.
- d. compares the newly calculated support obligation to the existing support order. If the difference between the newly calculated support obligation and the existing support order equals or exceeds the greater of \$25.00 per month or 25% of the existing support order, the request should be granted.

CIVIL ENFORCEMENT ADMINISTRATIVE

Modifying Support Orders

-- At Parties Request

NOTE -- SUBSEQUENT FAMILIES. If both these conditions exist:

- the new amount is a reduction, and
- the reduction is caused because the absent parent has subsequent families,

recalculate the support obligation excluding the absent parent's subsequent families from the self support reserve. Compare the second new amount to the existing order. Deny the request if the difference between the second new amount and the existing order does not equal or exceed the greater of \$25.00 per month or 25% of the existing order.

e. In cases where the previous criteria are not met or are not applicable, and no health insurance obligation has previously been ordered, a modification request should be granted if health insurance is available through the absent parent's employment or union.

f. In cases where the previous criteria are not met or are not applicable, and the existing support order:

- was issued between 1/1/90 and 4/24/91 and requires immediate income withholding payments through the CSED, or,
- requires immediate income withholding,

the request should be granted if either of the parties seeks an exception to the immediate income withholding requirement.

4. If the review results in a determination that the request should be denied, prepares and copies forms CS-408.3A, "Modification Request" and CS-408.3B, "Notice Concerning Modification Request"

CIVIL ENFORCEMENT ADMINISTRATIVE

Modifying Support Orders

-- At Parties Request

denying the request. Mails one copy to the requesting party and one copy to the non-requesting party. Retains the original in the case file. (NOTE - the "Notice Concerning Modification Request" denying a request for modification is a final agency action and is subject to judicial review.) No further action by the CSED caseworker will be necessary unless a judicial review petition is received. In that event, the caseworker must notify the regional Staff Attorney immediately.

[IF DENIED, STOP HERE]

5. If the review results in a determination that the "Modification Request" should be granted, prepares an original and one certified copy of the "Notice Concerning Modification Request":

- a. prepares a notice package to the requesting party consisting of:

- the original and one copy of form CS-408.3B, "Notice Concerning Modification Request"
- a copy of form CS-408.3A, "Modification Request"
- newly calculated form CS-404.1A, "Worksheet for Determination of Child Support Obligation"
- one blank "Worksheet for Determination of Child Support Obligation"
- form CS-405.2 "Request for Hearing"
- form CS-401.3G "Praecipe" or form CS-405.1 "Acknowledgement of Service"

CIVIL ENFORCEMENT ADMINISTRATIVE

Modifying Support Orders
-- At Parties Request

b. prepares a notice package to the non-requesting party consisting of:

- the certified copy and one copy of form CS-408.3B, "Notice Concerning Modification Request"
- a copy of form CS-408.3A, "Modification Request"
- newly calculated form CS-404.1A, "Worksheet for Determination of Child Support Obligation"
- one blank "Worksheet for Determination of Child Support Obligation"
- form CS-405.2, "Request for Hearing"
- form CS-404.6A, "Financial Affidavit"
- form CS-401.3G "Praecipe" or form CS-405.1 "Acknowledgement of Service"

Mails notice packages to appropriate Sheriff(s) for personal service upon the requesting and non-requesting parties. Retains copies of necessary documents in the case file. Diaries the case for Sheriff's return, unless service is acknowledged in writing on form CS-405.1, "Acknowledgement of Service"

NOTE -- MONTANA AS RESPONDING STATE: If Montana is acting as a responding state on a URESA or Interstate request from another jurisdiction, the initiating state should be considered a "party". In such cases, the notice packet minus the praecipe should be mailed to the initiating IV-D agency for service along with form CS-405.1, "Acknowledgement of Service". Laws of the initiating state governing service of process will determine whether the IV-D applicant or a

CIVIL ENFORCEMENT ADMINISTRATIVE

Modifying Support Orders
-- At Parties Request

representative of the IV-D agency signs the "Acknowledgement of Service".

6. The CSED caseworker obtains a certified copy of all existing support orders which were not previously registered with the CSED Hearings Office under manual section ~~CS 405.3~~ or originally entered by the CSED. The certified copy and form ~~CS 405.3A~~, "Application for Registration of Support Order" must be forwarded to the CSED Hearings Office before proceeding to the next step. Diaries for receipt of ~~CS 405.3B~~, "Notice of Registration of Support Order".
- CS 500.2*
CS 500.2A
CS 500.2B

NOTE -- The parties may request a hearing within 20 working days (excluding holidays and weekends) of the date of service.

7. Monitors return and takes action as follows:
- a. if neither party requests a hearing within the response time, prepares forms ~~CS-408.3C~~, *CS 500.2C*, "Modification Default Affidavit", and CS-408.3D, "Modification Default Decision and Order". Forwards the originals to the CSED Hearings Office, retaining copies in the case file. (Proceeds to step 18.)
 - b. if contacted within 20 working days but no hearing is requested and communications break off, send CS-405.4, "NOTICE OF DEFAULT" to both parties' last known addresses by regular mail, retain a copy for the record, and diary for 10 working days plus 3 days for mailing. Takes action as follows:

CIVIL ENFORCEMENT ADMINISTRATIVE

Modifying Support Orders

-- At Parties Request

- 1) if no request for hearing or no signed Modification Consent Order is received, proceeds with default action (step a).
- 2) if a hearing is requested in writing by either party within the time limit, follows hearing procedures outlined in Section CS 405.2.
- 3) if contacted within 13 days and either party proves the action specified in the notice is inappropriate, consult regional supervisor or staff attorney for decision. If necessary, the caseworker may be directed to prepare form CS-401.3F, "MOTION AND ORDER TO DISMISS ADMINISTRATIVE NOTICE".

NOTE -- A hearing must be granted even if the hearing request is untimely, so long as the "Request for Hearing" reaches the Hearings Office prior to the entry of the "Modification Default Decision and Order".

C. if either or both parties request(s) a hearing within the response time, prepares a packet consisting of the following information and forwards it to the CSED Hearings Office:

- original "Request for Hearing", if received in the regional office,
- original "Modification Request"
- original "Notice Concerning Modification Request"
- originals of each proof of service
- original "Financial Affidavit" submitted by requesting party

CIVIL ENFORCEMENT ADMINISTRATIVE

Modifying Support Orders

-- At Parties Request

- original "Worksheet for Determination of Child Support Obligation"
- certified copy of the "Debt Computation Worksheet"
- mailing address of non-requesting party, if different from that indicated on the "Modification Request"
- copy of the existing support order. A certified copy need not be sent because a certified copy or original is already on file with the Hearings Office if registration occurred or if the order was originally issued by the CSED.

Retains copies of documents in the case file.

Diary for receipt of "Order for Hearing".

.Hearings Assistant

8. Upon receipt of the documents described in step 7. c., schedules a hearing not less than 64 days from the current date. Immediately prepares and mails "Order for Hearing" to requesting party, the non-requesting party and the CSED.

.Caseworker

9. Upon receipt of "Order for Hearing", examines case file to determine Non-AFDC status.
 - a. If the current support obligation is being enforced by CSED pursuant to a Non-AFDC application or under the continued services provisions of MCA § 40-5-203, no further CSED caseworker involvement is required unless subpoenaed by another party.

CIVIL ENFORCEMENT ADMINISTRATIVE

Modifying Support Orders
-- At Parties Request

- b. If the current support obligation has been assigned to the CSED pursuant to MCA § 53-2-613, the caseworker reviews the case file and if necessary, obtains and submits additional information or documentation in support of the CSED's position at hearing. Diaries case for hearing preparation.
- 10. Follows hearing procedures outlined in manual section CS 405. After hearing, proceeds to step 19.
- 11. At any time during the modification process, but prior to hearing, the parties may agree on the terms of appropriate modification by executing and submitting form CS-408.3E, "Modification Consent Order".

NOTE -- IN AFDC CASES: When the CSED is an assignee, it is a party and must agree in writing to the terms of any modification. The custodian's signature is ~~not~~ needed. The investigator may sign as CSED Representative only after the Modification is reviewed and approved by the Supervisor.

NOTE -- IN NON-AFDC CASES: When the CSED is not an assignee it is not a party, need not be involved in any settlement negotiations and need not sign the "Modification Consent Order".

- a. in appropriate cases, CSED caseworker prepares the "Modification Consent Order", obtains the required signatures and forwards the signed, completed document to the CSED

CIVIL ENFORCEMENT ADMINISTRATIVE

Modifying Support Orders
-- At Parties Request

Hearings Office. Retains a copy in the case file.

- b. diaries for receipt of final "Modification Consent Order".

.Hearings
Assistant

12. Upon receipt of documents, logs (if appropriate), assigns appropriate numbers and forwards documents to the Hearing Officer.

NOTE -- DEFAULTS: Unlike administrative actions setting financial responsibility, modification defaults cannot be set aside upon a showing of "good cause" so a delay is not necessary. Prepare the Abstract immediately.

.Hearing
Officer

13. Reviews, and if acceptable, signs the order portion of the documents causing the support order to be modified.

.Hearings
Assistant

14. Upon receipt of the signed document, signs the certificate of mailing, prepares and mails copies to all parties and, if applicable, to their attorneys, retaining the original in the hearing file.
15. Immediately prepares forms CS-404.8A, "Abstract of Final Administrative Order" (see manual section CS 404.8) and CS-404.8B, "Praecipe" and forwards both documents to the Bureau Chief or designee.

CIVIL ENFORCEMENT ADMINISTRATIVE

Modifying Support Orders
-- At Parties Request

.Bureau
Chief or
Designee

16. Reviews documents, and if acceptable, signs, affixes the Department of Social and Rehabilitation Services seal and returns to the Hearings Assistant for filing in District Court. (For Abstract of Final Administrative Order, see manual section CS 404.8.)

.Hearings
Assistant

17. Makes copies of the "Abstract of Final Administrative Order", mails original to the appropriate Clerk of Court with "Praecipe" including filing instructions. Diaries for return of document(s) from Clerk of Court.

NOTE -- OUT OF STATE ORDERS: In cases where the existing support order was issued by a court or administrative agency outside Montana, the "Abstract of Final Administrative Order" should be filed in the District Court of the Montana county where the absent parent resides. A certified copy of the administrative order and the abstract should also be mailed to the court which issued the existing support order. This is to provide notice of the Montana modification action.

18. When conformed copy(ies) are received from the Clerk of Court, files original in the Hearings Office file. Prepares and sends copies to the CSED caseworker, the absent parent, the custodian and, if applicable, their attorney(s).

.Caseworker/
Typist

19. Upon receipt of the "Modification Fair Hearing Decision and Order",

CIVIL ENFORCEMENT ADMINISTRATIVE

Modifying Support Orders

-- At Parties Request

"Modification Default Decision and Order" or "Modification Consent Order", places in the case file with the appropriate case notes. Makes changes on system and income withholding order(s) as necessary.

20. Upon receipt of the "Abstract of Administrative Order", places in case file with appropriate case notes. Changes cause number and CSE system, if necessary.

SAMPLES AND INSTRUCTIONS FOLLOW

The forms are complete and will be distributed with these manual pages. As soon as the instruction section has been written, it will be distributed separately.

Department of Social and
Rehabilitation Service

section:
Civil Enforcement
Administrative

CHILD SUPPORT ENFORCEMENT

subject:
Modifying Support Orders
-- at CSED Request

POLICY:

The CSED must review support orders, and adjust those orders as appropriate, in accordance with duly established child support guidelines. Montana law (MCA §§ 40-5-272 and 40-5-273) allows the CSED to modify administratively established support orders or other orders registered with the CSED under MCA § 40-5-271 so that they will continue to conform to the child support guidelines set forth in CS 401.1.

This section describes the procedures to be used by the CSED to modify support orders. Procedures to be used when modification is requested by Custodian and absent parents are described in CS 408.3.

OVERVIEW:

To modify a support order, the CSED must determine if the standards for modification are met. If so, the CSED caseworker computes a support amount using the child support guidelines, issues a "~~CS-408.3B~~ Notice Concerning Modification Request", and initiates personal service on all interested parties. If necessary, the CSED caseworker registers the existing support order in accordance with CS 405.15.

All parties have 20 days from the date of service of the notice to request an administrative fair hearing on the proposed modification. The hearing is conducted by the CSED Hearing Officer in accordance with CS 405.7.

CIVIL ENFORCEMENT ADMINISTRATIVE

Modifying Support Orders

-- At CSED Request

PROCEDURE:

Responsibility

ACTION

.Caseworker/
Typist

1. When reviewing a case for possible modification, examines the case file and other records available in the CSED regional office, and determines whether:
 - the support order was entered more than three (3) years prior to the date of the review.
 - the Absent Parent's location is known, and the Absent Parent can be personally served within Montana or is subject to long-arm service of process.
 - the Custodian is a recipient of AFDC, IV-E foster care, or Medicaid.
 - the youngest child affected by possible modification is less than 15 years old.
 - sufficient information about the Custodian and Absent Parent is available in CSED records to calculate a support amount using the child support guidelines.
 - no legal barriers (jurisdictional impediments) exist which would prevent the CSED from exercising its jurisdiction to register and modify the existing support order.
 - there has been no finding by the IV-A agency that the Custodian has "good cause" not to cooperate.
2. If ALL of the foregoing criteria are met, computes a support obligation using the child support guidelines at CS 401.1. If any of the foregoing criteria are not met, makes appropriate case notes and system change(s), diaries 10 months and stops here.

CIVIL ENFORCEMENT ADMINISTRATIVE

Modifying Support Orders

-- At CSED Request

3. Compares the newly calculated support obligation to the existing support order. If the difference between the newly calculated support obligation and the existing support order equals or exceeds the greater of \$25.00 per month or 25% of the existing support order, proceeds to step 4. If not:
 - a. reviews the case file to determine if a health insurance obligation has previously been ordered. A modification is required even if the support amount will not change.
 - b. reviews the support order to determine if the support order is less than \$50.00 per child per month, and the Absent Parent's annual income is at least \$10,000 (for one child -- for each additional child add \$2,000). If so, an adjustment may be appropriate, even though the \$25.00 or 25% standard has not been met. In questionable cases, consult your supervisor.
4. If the review results in a determination that modification is appropriate, prepares an original and one certified copy of the "Notice Concerning Modification Request" prepares one notice package for **EACH** interested party consisting of:
 - the original and one copy of form CS-408.3B, "Notice Concerning Modification Request"
 - newly calculated form CS-404.1A, "Worksheet for Determination of Child Support Obligation"

CIVIL ENFORCEMENT ADMINISTRATIVE

Modifying Support Orders

-- At CSED Request

- one blank "Worksheet for Determination of Child Support Obligation"
- form CS-405.2 "Request for Hearing"
- form CS-401.3G "Praecipe" or form CS-405.1 "Acknowledgement of Service"

Mails notice packages to appropriate Sheriff(s) for personal service upon the parties. Retains copies in the case file. Diaries for Sheriff's return, unless service is acknowledged in writing on form CS-405.1, "Acknowledgement of Service"

5. The CSED caseworker obtains a certified copy of any existing support order which was not previously registered with the CSED Hearing Office under manual section CS 405.3 or originally entered by the CSED. The certified copy and form CS-405.3A, "Application for Registration of Support Order" must be forwarded to the CSED Hearings Office before proceeding to the next step. Diaries for receipt of CS-405.3B, "Notice of Registration of Support Order".

NOTE -- The parties may request a hearing within 20 working days (excluding holidays and weekends) of the date of service.

6. Monitors return and takes action as follows:
 - a. if neither party requests a hearing within the response time, prepares forms CS-408.3C, "Modification Default Affidavit", and CS-408.3D, "Modification Default Decision and Order". Forwards the originals to the CSED Hearings Office, retaining copies in the case file. (Proceeds to step 17.)

CIVIL ENFORCEMENT ADMINISTRATIVE

Modifying Support Orders

-- At CSED Request

b. if contacted within 20 working days but no hearing is requested and communications break off, send CS-405.4, "NOTICE OF DEFAULT" to both parties' last known addresses by regular mail, retains a copy for the record, and diaries for 10 working days plus 3 days for mailing. Takes action as follows:

- 1) if no request for hearing or no signed Modification Consent Order is received, proceeds with default action (step a).
- 2) if a hearing is requested in writing by either party within the time limit, follows hearing procedures outlined in Section CS 405.2.
- 3) if contacted within 13 days and either party proves the action specified in the notice is inappropriate, consult regional supervisor or staff attorney for decision. If necessary, the caseworker may be directed to prepare form Cs-401.3F, "MOTION AND ORDER TO DISMISS ADMINISTRATIVE NOTICE".

NOTE -- A hearing must be granted even if the hearing request is untimely, so long as the "Request for Hearing" reaches the Hearings Office prior to the entry of the "Modification Default Decision and Order".

c. if either or both parties request(s) a hearing within the response time, prepares a packet consisting of the following information and forwards it to the CSED Hearings Office:

CIVIL ENFORCEMENT ADMINISTRATIVE

Modifying Support Orders

-- At CSED Request

- original "Request for Hearing", if received in the regional office,
- original "Notice Concerning Modification Request"
- originals of each proof of service
- original "Financial Affidavit" if submitted by requesting party to the regional office
- original "Worksheet for Determination of Child Support Obligation"
- certified copy of the "Debt Computation Worksheet"
- copy of the existing support order. A certified copy need not be sent because a certified copy or original is already on file with the Hearings Office if registration occurred or if the order was originally issued by the CSED.

Retains copies of documents in the case file.

Diary for receipt of "Order for Hearing".

7. Upon receipt of "Order for Hearing", reviews the case file and if necessary, obtains and submits additional information or documentation in support of the CSED's position at hearing. Diaries case for hearing preparation.
8. Follows hearing procedures outlined in manual section CS 405. After hearing, proceeds to step 17.
9. At any time during the modification process, but prior to hearing, the

CIVIL ENFORCEMENT ADMINISTRATIVE

Modifying Support Orders

-- At CSED Request

parties may agree on the terms of appropriate modification by executing and submitting form CS-408. 3E, "Modification Consent Order".

NOTE -- IN AFDC CASES: When the CSED is an assignee, it is a party and must agree in writing to the terms of any modification. The custodian's signature is ~~not~~ needed. The investigator may sign as CSED Representative only after the Modification is reviewed and approved by the Supervisor.

NOTE -- IN NON-AFDC CASES: When the CSED is not an assignee it is not a party, and need not be involved in any settlement negotiations and need not sign the "Modification Consent Order".

- a. in appropriate cases, CSED caseworker prepares the "Modification Consent Order", obtains the required signatures and forwards the signed, completed document to the CSED Hearings Office. Retains a copy in the case file.
- b. diaries for receipt of final "Modification Consent Order" and skips to step 17.

.Hearings
Assistant

10. Upon receipt of documents, logs (if appropriate), assigns appropriate numbers and forwards documents to the Hearing Officer.

NOTE -- DEFAULTS: Unlike administrative actions setting financial responsibility, modification defaults cannot be set aside upon a showing of "good

CIVIL ENFORCEMENT ADMINISTRATIVE

Modifying Support Orders

-- At CSED Request

cause". It is not necessary to
diary preparation of the abstract.

.Hearing
Officer

11. Reviews, and if acceptable, signs
the order.

.Hearings
Assistant

12. Upon receipt of the signed order,
signs the certificate of mailing,
prepares and mails copies to all
parties and, if applicable, to their
attorneys, retaining the original in
the hearing file.
13. Immediately prepares forms CS-
404.8A, "Abstract of Final
Administrative Order" (see manual
section CS 404.8) and CS-404.8B,
"Praecipe" and forwards both
documents to the Bureau Chief or
designee.

.Bureau
Chief or
Designee

14. Reviews documents, and if
acceptable, signs, affixes the
Department of Social and
Rehabilitation Services seal and
returns to the Hearings Assistant
for filing in District Court. (For
Abstract of Final Administrative
Order, see manual section CS 404.8.)

.Hearings
Assistant

15. Makes copies of the "Abstract of
Final Administrative Order", mails
original to the appropriate Clerk of
Court with "Praecipe" including
filing instructions. Diaries for
return of document(s) from Clerk of
Court.

NOTE -- OUT OF STATE ORDERS: In cases
where the existing support order was

CIVIL ENFORCEMENT ADMINISTRATIVE

Modifying Support Orders

-- At CSED Request

issued by a court or administrative agency outside Montana, the "Abstract of Final Administrative Order" (and "Warrant for Dstraint" if applicable) should be filed in the District Court of the Montana county where the absent parent resides. A certified copy of the administrative order and the abstract should also be mailed to the court which issued the existing support order. This is to provide notice of the Montana modification action. The "Warrant for Dstraint" creates a lien on personal property and should be filed in Montana county(ies) where the absent parent resides.

16. When conformed copy(ies) are received from the Clerk of Court, files original in the Hearings Office file. Prepares and sends copies to the CSED caseworker, the absent parent, the custodian and, if applicable, their attorney(s).

.Caseworker/
Typist

17. Upon receipt of the "Modification Fair Hearing Decision and Order", "Modification Default Decision and Order" or "Modification Consent Order", places in the case file with the appropriate case notes. Makes changes on system and income withholding order(s) as necessary.

18. Upon receipt of the "Abstract of Administrative Order", places in case file with appropriate case notes. Changes cause number and CSE system, if necessary.

SAMPLES AND INSTRUCTIONS FOLLOW

The forms are complete and will be distributed with these manual pages. As soon as the instruction section has been written, it will be distributed separately.

- FOR CSED USE ONLY -

REGISTRATION OF SUPPORT ORDER

Upon the foregoing application, the support order identified below is hereby registered in the CSED Child Support Registry on _____.

Hearings Office

STATE OF MONTANA
DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION
HEARINGS OFFICE

IN RE THE SUPPORT OF:

Child(ren)

Case No. _____

Custodian as of Notice Date

Absent Parent

NOTICE OF REGISTRATION OF SUPPORT ORDER

TO: CLERK OF COURT, CUSTODIAN, ABSENT PARENT AND CSED:

PLEASE TAKE NOTICE that under the authority of MCA § 40-5-271, the support order described below has been registered with the Child Support Enforcement Division (CSED) Child Support Registry on _____.

A support order registered with the CSED Child Support Registry is treated in the same manner and will have the same effect as a child support order issued by the CSED. This may include enforcement by writs of execution, income withholding and other appropriate remedies. A registered support order may also be subject to modification under MCA § 40-5-272 or 40-5-273. Modifications will be limited to the issues of child support and health insurance. Custody, visitation and other issues cannot be addressed.

Any party to the original support order may contest the registration of the support order by asserting any defense available to a defendant in an action or proceeding to enforce a foreign money judgment. This means that the parties may not relitigate the support order. A party can raise only such claims as lack of personal or subject matter jurisdiction by the court or administrative agency which entered the support order. For information on how to contest registration of the support order, contact the CSED at the address at the top of this page.

Date

Hearings Office

CS-405-3B
(New 7/92)

CERTIFICATE OF MAILING

This is to certify that I, one of the legal unit administrative staff, deposited in the regular U. S. Mail, postage prepaid on the _____ day of _____, 19_____, a true and correct copy of the foregoing Notice of Registration of Support Order to the following:

HEARINGS ASSISTANT
Child Support Enforcement Division

Department of Revenue

SECTION

ADMINISTRATIVE HEARING

CHILD SUPPORT ENFORCEMENT

SUBJECT:

Definitions

DEFINITIONS:

As used in this section:

ADMINISTRATIVE HEARING - A formal proceeding where testimony is taken before a hearings officer and questions of fact and law are placed in issue. The proceeding is concerned with actions of Department personnel, Departmental policies and regulations or state law and includes, if desired by the obligor the appeal of any decision to district court for review.

DEPARTMENT - The Department of Revenue

HEARINGS OFFICER - Those persons hired by the department to conduct an administrative hearing at the request of the obligor and to make findings of fact and conclusions of law and to render decisions thereon under the rules and policies of the department

OBLIGOR - Any parent in the state whose failure to provide child support is the basis upon which an action to collect child support is initiated

PRE-HEARING SETTLEMENT CONFERENCE - An informal proceeding where an obligor may have an opportunity to examine the department's evidence, exchange information, reconcile differences on alleged support debts, and arrange an agreement for payment of child support debts.

Department of Revenue

SECTION:

ADMINISTRATIVE HEARING

CHILD SUPPORT ENFORCEMENT

SUBJECT:

Request for
Administrative HearingREQUEST FOR
HEARING:

GENERAL RULE--Any responsible parent who objects to any part or all parts of a "Notice" has the right, within 20 days from the date of service, to submit a written request for Administrative Hearing. Section 40-5-226, MCA.

DEFINITIONS:

WRITTEN REQUEST--submitted on Form CS-49, "Request for Hearing".

SUBMIT--filing Form CS-49:

.in person at a Child Support Office

.by registered or certified mail at: Department of Revenue, Child Support Enforcement Bureau, P.O. Box 5955, Helena, Montana 59601.

PROCEDURE:

Responsibility

ACTION

- | | |
|----------|---|
| .Obligor | 1. Complete Form CS-49 and submit to Department. |
| .CSEB | 2. Notify Hearings Officer of "Request". |
| | 3. Notify Local Child Support Office to proceed with pre-hearing settlement conference. |

Department of Revenue

SECTION:

ADMINISTRATIVE HEARING

SUBJECT:

Pre-Hearing
Settlement Conference

CHILD SUPPORT ENFORCEMENT

PRE-HEARING
SETTLEMENT
CONFERENCE:

PURPOSE AND SCOPE--The purpose of the informal conference is to prevent unnecessary Administrative Hearings. The obligor and an agent of the Child Support Enforcement program attempt to reach an agreement on the alleged support responsibility.

FORM CS-56, "NOTIFICATION OF PRE-HEARING SETTLEMENT CONFERENCE"--Use Form CS-56 to provide confirmation of appointment to obligor.

TIME OF CONFERENCE-- The conference is completed within 20 days of a "Request for Hearing" in order to permit scheduling an Administrative Hearing if issues remain unresolved.

FAILURE TO APPEAR--at the pre-hearing settlement conference does not affect the obligor's right to an Administrative Hearing. If another conference can be scheduled and held within the original 20 days, do so. Otherwise, the Administrative Hearing is scheduled by the Hearings Officer.

EFFECT OF CONFERENCE-- The opportunity for a pre-hearing settlement conference is not used to diminish, delay, or avoid the obligor's right to an Administrative Hearing. If the conference does not resolve questions and issues to the obligor's satisfaction, the Hearings Officer proceeds with the formal Administrative Hearing.

FORM CS-57, "PRE-HEARING CONFERENCE REPORT"--A written report submitted to the Hearings Officer detailing the results of the informal conference.

CS 405.3

SECTION:

ADMINISTRATIVE HEARING

SUBJECT:

Pre-Hearing
Settlement Conference

PROCEDURE:

Responsibility

ACTION

SCHEDULING THE PRE-HEARING SETTLEMENT CONFERENCE--

- .CSEB 1. Inform the issuing office to proceed with a pre-hearing settlement conference.
- .Issuing Office 2A. If the obligor resides in your area, skip to Step 3 below.
- 2B. If the obligor resides in some other area of Montana, ask the Child Support Supervisor for that Region to authorize a staff member to conduct the conference.
- Note to Regional Supervisors: If requested by another office supervisor, arrange for a collection specialist in your Region to schedule and hold a pre-hearing settlement conference.
- .Collection Sp. 3. Contact the obligor for conference appointment.
4. Send Form CS-56, via regular mail, to obligor confirming conference.
5. Obtain relevant case information from case file. You may not need the entire file.

CONDUCTING THE PRE-HEARING SETTLEMENT CONFERENCE--

- .Collection Sp. 1. Open conference by:
- . Stating its purpose and scope; and
 - . Reminding the obligor that the conference has no effect on his right to an Administrative Hearing.
2. Ask obligor, or his designated representative, to present his case.

SECTION:

ADMINISTRATIVE HEARING

SUBJECT:

Pre-Hearing
Settlement Conference

- .Obligor or Representative 3. Explain why an Administrative Hearing was requested.
4. Present information in support of position.
- .Collection Sp. 5. Explain basis for Department's action.
6. Present documentation in support of action.
7. Resolve differences by:
- .Interpreting state policies and regulations which may not be entirely understood.
- .Explaining to the obligor, or his representative, the laws and regulations under which the Department operates.
8. If necessary, call issuing office for clarification.
9. Complete Item #1 of Form CS-57.
- .Obligor or Representative 10. Complete, sign, and date Item #2 of Form CS-57, indicating the satisfactoriness of the conference.
- .Collection Sp. 11. Send Form CS-57 to interested parties:
- .Original to Hearings Officer
- .Copy to case file (mail to issuing office if necessary)
- .Issuing Office 12A. If the obligor consents to the statement of Form CS-57, enter into a "Stipulation" (Form CS-58), whereby the parties effectively amend the "Notice".
- 12B. If the obligor does not agree to conference results, prepare for Administrative Hearing.

CS 405.3

SECTION:

ADMINISTRATIVE HEARING

SUBJECT:

Pre-Hearing
Settlement Conference

CS-56

STATE OF MONTANA
DEPARTMENT OF REVENUE

* * * * *

STATE OF MONTANA, acting by
and through the DEPARTMENT
OF REVENUE, ex. rel. _____

Mary Jones

Plaintiff,

-VS-

Joe T. Jones

Defendant.

NOTIFICATION OF PRE-HEARING
SETTLEMENT CONFERENCE

RE: Notice # 5-122879-23

YOUR REQUEST for a Hearing regarding alleged support responsibility has been received in this office. As part of the administrative appeal, you are provided an opportunity to discuss this matter at an informal conference with a Child Support investigator in your area.

The purpose of this conference prior to a formal hearing, is to exchange information and reconcile differences on alleged support responsibility and to arrange an agreement for child support payment. You may engage legal counsel, if you so desire, but this is not necessary.

BRING DOCUMENTS which show your ability to make support payments along with any and all information relating to support payments you have made since the nth day of month, 19year.

YOUR CONFERENCE is scheduled for 8:00 AM, January 15, 1980.
The address is 150 W. Front - Suite A. Missoula.
If you cannot make this appointment, please telephone to make arrangements for another time: phone # 721-1541.

IF ISSUES REMAIN UNRESOLVED after this informal conference, arrangements will be made for a formal Administrative Hearing.

Conducted under the rules and
authority of: ADMINISTRATIVE
HEARINGS OFFICER, Department
of Revenue

Signed: (CSE staff member for conference)
(Child Support Official)

Date: (of preparation of this form)

SECTION

ADMINISTRATIVE HEARING

SUBJECT:

Pre-Hearing
Settlement Conference

CS-57

STATE OF MONTANA
DEPARTMENT OF REVENUE, BUREAU OF CHILD SUPPORT ENFORCEMENT
PRE-HEARING CONFERENCE REPORT

TO:	Collection Specialist 150 W. Front - Suite A Missoula, Montana 59801	FROM:	HEARINGS OFFICER Department of Revenue P.O. Box 5955 Helena, Montana 59601
Please note any attached correspondence and make arrangements within 10 days for a pre-hearing settlement conference to discuss defendant's request for an Administrative Hearing. Defendant: <u>Joe T. Jones</u> CS# <u>(number)</u> Notice# <u>5-122879-21</u>			
AT THE CONFERENCE, complete the investigator's narrative; THEN have the Appellant check the appropriate statement in Item 2, and sign. Date: <u>(of this sending)</u> , Under the authority of the Hearings Officer.			
1. Investigator Narrative:			
Signature _____ Date _____			
2. Conference Result:			
☐ My reasons for requesting an Administrative Hearing have been satisfactorily resolved during this conference. I withdraw my request for an Administrative Hearing.			
☐ My reasons for requesting an Administrative Hearing have not been resolved during this conference. I request that an Administrative Hearing be scheduled on my behalf.			
Appellant Signature _____ Date _____			
Legal Counsel for Appellant Signature _____ Date _____			

(original to Hearings Officer - copy to Case File)

Department of Public Health and Human
Services

section:
ADMINISTRATIVE HEARINGS

CHILD SUPPORT ENFORCEMENT

subject:
Notice of Default

SUPERSEDES: CS 405.4, Notice of Default, February 15, 1988

POLICY:

Following service of an administrative notice, if the person served has not taken sufficient action to prevent a default, the CSED may, at its option, delay final action on the default by issuing further notice in the form of a Notice of Default. The purpose of the Notice of Default is to make the person aware of the existent default situation, and to prompt appropriate action. If the person does not respond appropriately within 10 days, the CSED then proceeds with a final administrative order based on the default. **EXCEPTION:** The Notice of Default is **not** appropriate for use in income withholding actions, because the federal time frames following the withholding notice do not, in practice, allow for the additional response time required.

Generally the Notice of Default is used--at the caseworker's or region's option--when the following conditions apply:

- (1) Initial Contact. The person served has timely contacted (or responded to contact by) the CSED in a way that recognizes the existence of the pending administrative action.
- (2) Applicable Default. The person served has not timely requested a hearing on the notice or signed an agreement consenting to the terms of the notice (or to other terms acceptable to the CSED), and the CSED has not dismissed the notice.
- (3) Possible Misconception. In the circumstances, it is possible the person served is not aware he or she is in a default position, or that
 - the CSED still intends to proceed as stated in the notice.

When it is certain the person understands he or she is subject to default action, or when there is no contact at all with the person following service of the original notice, the CSED normally does not use the Notice of Default. However, in exceptional situations it may still be useful in protecting the CSED from later charges the person was not afforded due process, or in preventing the necessity for later CSED actions to undo the

section: ADMINISTRATIVE HEARINGS**subject:** Notice of Default

default order.

There is no statutory or other legal requirement for the CSED to issue a Notice of Default in connection with any administrative process. Nor does CSED policy require use of the Notice of Default as a standard procedure in any of these processes. (Certain specific, non-standard scenarios are identified in this Manual where the Notice of Default is expressly required.)

PROCEDURES:

RESPONSIBILITY	ACTION
Caseworker	1. Upon determining a person served with a CSED administrative notice is in default, determines whether Notice of Default applies according to above POLICY and to PROCEDURES in applicable Manual section. If so, proceeds to step 2. 2. Prepares form CS-405.4, Notice of Default, and sends by regular mail to last known address of person served. 3. Monitors for response within 10 working days plus 3 mailing days, and takes action as follows: a. If person does not timely request hearing or contact CSED (or if timely contact does not result in a signed agreement acceptable to the CSED or in a dismissal of the original notice), proceeds with default action for particular administrative process. b. If person timely requests hearing in writing, follows procedures for administrative hearing associated with particular administrative process. c. If person timely agrees to sign agreement acceptable to CSED, follows procedures for preparing and executing

section: ADMINISTRATIVE HEARINGS**subject:** Notice of Default

agreement associated with particular administrative process.

- d. If person timely contacts CSED and proves action specified in notice is not appropriate, executes form CS-401.3F, Motion and Order to Dismiss Administrative Notice (or other specialized document as appropriate to particular administrative process).

Department of Revenue

SECTION

ADMINISTRATIVE HEARING

SUBJECT:

Hearings Officer

CHILD SUPPORT ENFORCEMENT

HEARINGS
OFFICER:

RESPONSIBILITY--The Department's Hearing Officer conducts all Administrative Hearings on issues arising out of the child Support Enforcement Program.

Exceptions--The Hearings Officer:

1. May not modify the support amount set by an order of the district court of this state or by a court of appropriate jurisdiction of another state.
2. May not determine issues of paternity.

POWERS AND DUTIES--The Hearings Officer:

- . Determines the liability and responsibility, if any, of the alleged responsible parent under Section 40-5-221, MCA.
- . Determines the amount of periodic payments to be made to satisfy past, present, or future liability under Section 40-5-221, MCA.
- . Considers the scale of suggested minimum contribution adopted under Section 40-5-214, MCA.
- . Administers required oaths or affirmations.
- . Regulates the conduct of the hearing consistent with due process to ensure an orderly hearing.
- . Requests, receives, and makes part of the record all evidence presented.
- . Considers all relevant issues.

SECTION:

ADMINISTRATIVE HEARING

SUBJECT:

Hearings Officer

- . May require witnesses, depositions upon oral examination, written questions, written interrogatories, and other materials as necessary for the hearing. For this purpose, the Hearings Officer may, and upon the request of any party to the hearing shall, issue subpoenas for witnesses or subpoenas duces tecum (documents or materials to be examined).
- . May disqualify himself at any time on the filing of a timely (not less than 10 days before the original date set for the hearing) and sufficient affidavit of personal bias or other disqualification.
- . May take judicial notice of state and federal laws and regulations and facts within the general knowledge of the public.
- . May direct the parties to confer in a pre-hearing settlement conference to discuss and attempt to resolve or simplify the contested issues by consent of the parties.
- . Within 20 days of the hearing, enters findings, conclusions, and a final decision determining liability and responsibility and future periodic support payments.

LIMITATION:

AFTER ISSUANCE OF NOTICE--of hearing, the Hearings Officer does not communicate with any party (or representative) in connection with any issue of fact or law in such case except upon notice and opportunity for all parties to participate.

Department of Revenue

SECTION

ADMINISTRATIVE HEARING

SUBJECT:

Conduct of Hearing

CHILD SUPPORT ENFORCEMENT

CONDUCT OF
HEARING:

TIME AND PLACE--The Hearings Officer conducts the hearing at a reasonable time and date in the county seat of the county of the obligor's residence unless the parties agree to a different location.

HEARINGS
OFFICER:

RESPONSIBILITIES--generally, regulates the conduct of the hearing. Specific powers and duties are delineated elsewhere in Section CS 405 of this manual.

OBLIGOR'S
RIGHTS:

REPRESENTATION--At the responsible parent's option, he may present his case himself; or with the aid of an authorized representative of his choosing who is acceptable to the Hearings Officer.

FACTS--Obligor may establish all pertinent facts and circumstances.

Note: Such presentation is subject to the rules of evidence of the Administrative Procedure Act, Section 2-4-612, MCA.

WITNESSES--May present witnesses subject to cross-examination.

NON-INTERFERENCE--May advance facts, circumstances, and claims without undue interference.

CROSS-EXAMINATION--of adverse witnesses. Includes the opportunity to refute any testimony or evidence.

SECTION:

ADMINISTRATIVE HEARING

SUBJECT:

Conduct of Hearing

OBLIGOR
FAILURE TO
APPEAR:

DEFAULT--If the responsible parent (or the authorized representative) fails to appear at the hearing, upon a showing that obligor received due notice of hearing, the Hearings Officer enters a decision and order declaring the support obligation and payment provisions (as provided by a Notice of Support Debt, or Notice of Support Liability, or Notice and Finding of Financial Responsibility) to be assessed, determined, and subject to collection action.

Note: Within 20 days of the entry of the Order, the obligor (or representative) may petition the Hearings Officer to vacate the order upon a showing of any of the grounds enumerated in the Rules of Civil Procedure.

Department of Social and
Rehabilitation Services

Section:
ADMINISTRATIVE HEARING

CHILD SUPPORT ENFORCEMENT

Subject:

Subpoena and Subpoena
Duces Tecum

POLICY:

As provided by Montana Code Annotated, §§ 40-5-202 and 2-4-104, the Child Support Enforcement Division (CSED) may compel the attendance of witnesses and/or the production of documentary evidence which is necessary for the orderly and just conduct of administrative hearings. Sometimes, additional information will be needed after a decision and order is issued. In either instance, this is accomplished through a subpoena or a subpoena duces tecum. The CSED's subpoena power is limited by the U.S. Constitution's protection from unreasonable searches and seizures. Thus, any information sought must be relevant to the issues before the Hearing Officer. Further, the production of the information may not be unreasonably burdensome to the person subpoenaed.

A witness may be served with a subpoena, a subpoena duces tecum, or both. Service must be made by the sheriff of the county where the witness resides, or where the documents are located.

A witness may be ordered to appear in person or by telephone. If ordered to produce documents, the witness should deliver the original documents, or clear copies of them, to the requesting party.

Any party to a proceeding may request that the CSED issue a subpoena and/or a subpoena duces tecum. Witness fees, mileage expenses, and the reasonable costs of preparing, copying and transmitting the documents requested are the responsibility of the party requesting the subpoena and/or subpoena duces tecum. A witness compelled to appear in person at an administrative hearing is entitled to be represented by an attorney. The witness is responsible for their own attorney fees.

SECTION:
ADMINISTRATIVE HEARING

SUBJECT:
Subpoena and Subpoena Duces
Tecum

A subpoena duces tecum is not required in the normal course of agency business to release information usually released to an obligor, such as debt computations. If you are served with a subpoena, or a subpoena duces tecum, please consult a regional CSED Staff Attorney immediately. DO NOT release information without first consulting the Staff Attorney.

A person served with a subpoena or a subpoena duces tecum may object to the order. The Hearing Officer may, after considering the objection, modify or terminate the order, or impose conditions on its use.

Consult a CSED Staff Attorney for enforcement of a subpoena or a subpoena duces tecum.

For procedures governing the issuance of a blood test subpoena, see CS Mannual section 600.1 and following.

DEFINITIONS:

Subpoena: A legal document ordering a witness to appear at a specified time and place to testify.

Subpoena duces tecum: A legal document which commands the custodian of specified papers or other non-testimonial evidence to appear and produce that evidence for inspection and copying at a specified time and place.

SECTION:
ADMINISTRATIVE HEARING

SUBJECT:
Subpoena and Subpoena Duces
Tecum

PROCEDURE:

Responsibility

Action

UPON AGENCY REQUEST:

.Caseworker

1. Prepares and executes CS-405.8A, "Affidavit of Necessity," checking appropriate boxes for issuance of a subpoena, a subpoena duces tecum, or both.

NOTE: Consults a CSED Staff Attorney if questions of special usage or language arise.

.Supervisor

2. Reviews affidavit and case file to determine whether the requested evidence is necessary, whether the request is unduly burdensome, and whether the form and content is correct.

a. If the request is inappropriate, returns file to caseworker with appropriate case notes.

b. If the request is appropriate, makes appropriate case notes and returns file to caseworker with any necessary corrections.

.Caseworker

3. Makes any corrections to affidavit, and prepares two copies. Prepares CS-405.8B "Subpoena," or CS-405.8C "Subpoena Duces Tecum." If appropriate, prepares CS-405.8D "Request to Testify by Telephone." Prepares CS-401.3C "Praecipe" and envelope to sheriff. Prepares two copies of subpoena/subpoena duces tecum. Forwards original affidavit and subpoena form(s) and one copy of each, and the praecipe to Hearings Assistant. Retains copies in case file.

SECTION:
ADMINISTRATIVE HEARING

SUBJECT:
Subpoena and Subpoena Duces
Tecum

- | | |
|---|--|
| .Hearings
Assistant | 4. Checks completed subpoena form(s) for completeness, form, and accuracy. Forwards acceptable packets to Hearing Officer for review and signature. If unacceptable, returns to caseworker for correction. |
| .Hearing
Officer | 5. Reviews subpoena/subpoena <u>duces tecum</u> and affidavit. Determines whether the requested information/documents are relevant and whether production would be unduly burdensome. If acceptable, signs subpoena/subpoena <u>duces tecum</u> , and returns to Hearings Assistant. If unacceptable, writes "Denied" across face of document and initials, and returns to Hearings Assistant. |
| .Hearings
Assistant | 6. Affixes Department seal to signed subpoena form(s), and makes three copies. of the executed form(s). Forwards praecipe, original subpoena form(s) and one copy of the subpoena form(s) and a copy of the affidavit to the appropriate sheriff for service. Retains original affidavit in hearing file. Retains one copy of subpoena for hearings file, and sends one copy to caseworker. |
| .Caseworker | <p>7. Upon receipt of copy of issued subpoena form(s), files in case file and monitors for Sheriff's return of service.</p> <p>8. Upon return by the Sheriff, notes date of service in the case file. Forwards original subpoena and sheriff's return to the Hearings Assistant. Retains a copy of sheriff's return of service in case file.</p> |
| UPON REQUEST OF NON-AGENCY PARTY | |
| .Caseworker
OR Hearings
Assistant | 1. Upon request of a non-agency party for a |

SECTION:
ADMINISTRATIVE HEARING

SUBJECT:
Subpoena and Subpoena Duces
Tecum

subpoena or a subpoena duces tecum, completes top portion of CS-405.8A "Affidavit of Necessity." Mails affidavit and CS-405.8E "How to Request a Subpoena or a Subpoena Duces Tecum from the CSED" to the requestor.

.Hearings
Assistant

2. Upon return of the party's affidavit, reviews request for completeness. Prepares necessary subpoena form(s), and presents to Hearing Officer for review.

.Hearing
Officer

3. Reviews subpoena form(s) and affidavit. Determines whether requested information/documents are relevant, and whether production would be unduly burdensome. If acceptable, signs subpoena form(s) and returns to Hearings Assistant. If unacceptable, writes "Denied" across face of document and initials, and returns to Hearings Assistant.

.Hearings
Assistant

4. If necessary, prepares Form CS-405.8D, "Request to Testify by Telephone." Affixes Department seal to signed subpoena form(s). Returns executed form(s), or denied subpoena form(s) to requestor. As necessary, includes a CS-401.3C "Praeipie."

SEE FOLLOWING PAGES FOR INSTRUCTIONS/SAMPLES

SECTION:
ADMINISTRATIVE HEARING

SUBJECT:
Subpoena and Subpoena Duces
Tecum

INSTRUCTIONS:

Responsibility

Call Out Number

ACTION

FORM CS-405.8A, "Affidavit of Necessity"--used
to request the issuance of a subpoena or an
subpoena duces tecum.

.Caseworker OR

Hearings Assistant

- ① Enter the name of the obligor.
- ② Enter the case number.
- ③ Enter the name(s) of the child(ren).
- ④ Enter the name of the custodian of the child(ren).

.Requestor

- ⑤ Enter the county where the affidavit is being completed.
- ⑥ Enter the name of the person requesting the subpoena.
- ⑦ Check appropriate box.
- ⑧ If requesting a subpoena, check box.
- ⑧a Enter the name of the person whose testimony is necessary and to whom the subpoena is being directed.
- ⑧b Enter the reason(s) why the testimony of the person named in 8a, above, is necessary to the administrative hearing. If additional pages are necessary, attach them to the affidavit.
- ⑨ If requesting a subpoena duces tecum, check box.
- ⑨a Enter the name of the person or entity who is to produce the needed documents. If a specific name is not known, enter a description of the custodian of the document, such as "Bookkeeper," "Payroll Clerk," etc.

SECTION:
ADMINISTRATIVE HEARING

SUBJECT:
Subpoena and Subpoena Duces
Tecum

- (9b) Enter the name or description of the document(s) to be produced. If additional pages are necessary, attach the to the affidavit.
- (9c) Enter the reason(s) why the document(s) described in 9b, above, is necessary to the administrative hearing. If additional pages are necessary, attach them to the affidavit.
- (10) Enter the current date.
- (11) Sign your name.
- (12) Sign your name, enter your city of residence, enter the notary expiration date, and affix your notary seal.

.Notary
Public

SECTION:
ADMINISTRATIVE HEARING

SUBJECT:
Subpoena and Subpoena Duces Tecum
"Subpoena"

STATE OF MONTANA
DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION

OBLIGOR: _____ (1) _____) CHILD(REN): _____ (2) _____
CASE NO: _____ (2) _____) CUSTODIAN: _____ (4) _____

SUBPOENA

TO: _____ (5) _____

IN THE NAME OF THE STATE OF MONTANA, the Child Support Enforcement Division
(CSED) commands you to appear on the _____ day of _____ (6) _____, 19____, at
_____ (7) _____

at the hour of _____ (8) _____ a.m./p.m., then and there to testify in the
above-entitled administrative hearing on behalf of _____ (9) _____.

(10) [] If this box is checked, you may testify by telephone from your home
or business number. To do so, you must complete the attached "Request for
Telephone Testimony" and return it immediately to:

Hearings Office
Child Support Enforcement Division
P.O. Box 5955
Helena, MT 59604-5955

The Hearing Officer will place a call to the number you provide on the
request form at the time of the hearing. Requests must be received at least 5
days before the scheduled hearing date. Failure to obey this subpoena is
punishable in accordance with the provisions of law, including, but not limited
to, contempt proceedings in District Court.

DATED this _____ day of _____ (11) _____, 19____.

(SEAL)

(12)

HEARINGS OFFICER

CMJ:RB
(Rev. 02/91)

SECTION:
ADMINISTRATIVE HEARING

SUBJECT:
Subpoena and Subpoena Duces Tecum
"Subpoena"

INSTRUCTIONS:

Responsibility

Call Out Number

ACTION

FORM CS-405.8B, "Subpoena"--used to compel the appearance of a witness at an administrative hearing.

.Caseworker OR
Hearings Assistant

- ① Enter the name of the obligor.
- ② Enter the case number.
- ③ Enter the name(s) of the child(ren).
- ④ Enter the name of the custodian of the child(ren).
- ⑤ Enter the name and address of the person being subpoenaed.
- ⑥ Enter the date of the administrative hearing.
- ⑦ If appropriate, enter the address of the regional office where the subpoenaed witness will give testimony.
- ⑧ Enter the time the administrative hearing is scheduled to begin.
- ⑨ Enter the name of the party requesting the subpoena.
- ⑩ If appropriate, check box to permit the witness to testify by telephone. If this box is checked, YOU MUST complete page two.

.Hearing Officer

- ⑪ Enter today's date.
- ⑫ Sign your name, and affix the Department's seal.

SECTION:
ADMINISTRATIVE HEARING

SUBJECT:
Subpoena and Subpoena Duces Tecum
"Subpoena Duces Tecum"

STATE OF MONTANA
DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION

OBLIGOR: (1)) CHILD(REN): (3)
CASE NO: (2)) CUSTODIAN: (4)

SUBPOENA DUCES TECUM

TO: (5)

IN THE NAME OF THE STATE OF MONTANA, the Child Support Enforcement Division (CSED) commands you to produce and make available certain documents, records or files which are now in your custody and which are necessary evidence in the above entitled administrative action. Specifically, the documents, records or files which you are to produce are: (6)

(attach additional pages as necessary)

These records must be delivered or mailed to:

(7)

(8) [] If checked, you are further commanded to appear in person or by telephone on the _____ day of (8a), 19____, at

(8b) _____ at the hour of (8c) a.m./p.m., then and there to testify as to the contents and/or authenticity of the documents, records or files produced.

To testify by telephone, you must complete the attached "Request to Testify by Telephone, and return it immediately to:

-1-

CS 405.8C
(02/91)

SECTION:
ADMINISTRATIVE HEARING

SUBJECT:
Subpoena and Subpoena Duces Tecum
"Subpoena Duces Tecum"

Hearings Office
Child Support Enforcement Division
P.O. Box 5955
Helena, MT 59604-5955

The Hearing Officer will place a call to the number you provide on the request form at the time of the hearing. Requests must be received at least 5 days before the scheduled hearing date.

Failure to obey this subpoena is punishable in accordance with the provisions of law, including, but not limited to, contempt proceedings in District Court.

DATED this _____ day of _____, 19____.

(SEAL)

(10)

HEARINGS OFFICER _____

-2-

CS 405.8C
(02/91)

SECTION:
ADMINISTRATIVE HEARING

SUBJECT:
Subpoena and Subpoena Duces Tecum
"Subpoena Duces Tecum"

INSTRUCTIONS:

Responsibility

Call Out Number

ACTION

Form CS-505.8C, "Subpoena Duces Tecum"--used to compel the production of documents for use in an administrative proceeding. May also be used to compel the testimony of the custodian of the documents at an administrative hearing.

.Caseworker OR
Hearings Assistant

- ① Enter the name of the obligor.
- ② Enter the case number.
- ③ Enter the name(s) of the child(ren).
- ④ Enter the name of the custodian of the child(ren).
- ⑤ Enter the name and address of the person or entity in possession of the records or documents desired.
- ⑥ Enter the description of records or documents to be produced.
- ⑦ Enter the address of the party requesting the records or documents.
- ⑧ If presence of custodian of documents is necessary at the administrative hearing, check box.
- ⑧a If box is checked, enter the date of the scheduled administrative hearing.
- ⑧b If box is checked, enter the address of the regional office or other location where the hearing is to be held.
- ⑧c If box is checked, enter the time of the scheduled administrative hearing.

SECTION:
ADMINISTRATIVE HEARING

SUBJECT:
Subpoena and Subpoena Duces Tecum
"Subpoena Duces Tecum"

.Hearing
Officer

⑨

Enter today's date.

⑩

Sign your name, and affix the
Department's seal.

SECTION:
ADMINISTRATIVE HEARING

SUBJECT:
Subpoena and Subpoena Duces Tecum
"Request to Testify by Telephone"

REQUEST TO TESTIFY BY TELEPHONE

OBLIGOR: _____ (1) _____) CHILD(REN): _____ (3) _____
CASE NO: _____ (2) _____) CUSTODIAN: _____ (4) _____

I hereby request that I be allowed to testify by telephone in
the administrative hearing described above.

Please print the information below.

Name: _____

Address: _____

Phone for Hearing: _____

Signature _____

CS-405.8D
(02/91)

SECTION:
ADMINISTRATIVE HEARING

SUBJECT:
Subpoena and Subpoena Duces Tecum
"Request to Testify by Telephone"

INSTRUCTIONS:

Responsibility

Call Out Number

ACTION

Form CS-505.8D, "Request to Testify by Telephone"--used to notify Hearing Officer of witness' phone number for use in an administrative hearing.

.Caseworker OR
Hearings Assistant

- ① Enter the name of the obligor.
- ② Enter the case number.
- ③ Enter the name(s) of the child(ren).
- ④ Enter the name of the custodian of the child(ren).

SECTION:
ADMINISTRATIVE HEARING

SUBJECT:
Subpoena and Subpoena Duces Tecum
"How to Request a Subpoena or a
Subpoena Duces Tecum from the CSED"

HOW TO REQUEST A SUBPOENA OR A SUBPOENA DUCES TECUM FROM THE CSED

You cannot require a person who is not a party to a legal proceeding to testify. You cannot require a person who is not a party produce records which may have some bearing on a legal proceeding. You need a subpoena, or a subpoena duces tecum to insure that this evidence is available. A subpoena is a legal document ordering a person to appear at a specified time and place to testify. A subpoena duces tecum is an order to the custodian of specified papers or records to appear and produce that evidence.

You asked that a specific person, or specific records be available for a child support action pending against you. To get a subpoena or a subpoena duces tecum, you must complete the enclosed "Affidavit of Necessity." Complete the affidavit under oath, and sign it in front of a Notary Public. The CSED cannot issue a subpoena or subpoena duces tecum which would violate the federal and state constitutions. Also, the CSED can only consider the issues of child support, paternity, and medical support.

Submit the completed affidavit to:

Hearing office
Child Support Enforcement Division
P.O. Box 5955
Helena, MT 59604-5955

If the Hearing Officer approves your request for a subpoena or a subpoena duces tecum, or both, the Hearing Officer will issue the order and return it to you. You must contact the sheriff of the county where the person you wish to subpoena lives, or a private process server, to get the subpoena served. You are responsible for paying all the costs of service, including mileage and witness fees. You must give the sheriff or the private process server the original subpoena form(s) and a copy. The sheriff or private process server will send back a document to you called a "return." The return states whether the person named was served and, if so, the time, date, and location of service.

You must request a subpoena at least 10 days before the scheduled hearing. The subpoena must be served at least 5 days before the scheduled hearing. The CSED is not responsible for any delays in service caused by the process server or sheriff's department.

CS405.8E
(03/91)

SECTION:
ADMINISTRATIVE HEARING

SUBJECT:
Subpoena and Subpoena Duces Tecum
"How to Request a Subpoena or a
Subpoena Duces Tecum from the CSED"

INSTRUCTIONS FOR COMPLETING AFFIDAVIT

STATE OF MONTANA DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES CHILD SUPPORT ENFORCEMENT DIVISION		to the administrative proceedings in this case. The documents to be made available are specifically described as (attach additional pages as necessary) <u>4a</u>
ORIGINATOR _____ CHILD(REN) _____ ALSO _____ CUSTODIAN _____		
AFFIDAVIT OF NECESSITY		
STATE OF MONTANA _____ ss. County of _____ I, _____, having been first duly sworn upon oath, say:		
1. I am ☐ the Obligor named above; ☒ a CSED Caseworker, ☐ Other (describe) _____		
2. I am requesting that the Department of Social and Rehabilitation Services issue:		
☒ a subpoena to compel the personal appearance of _____ <u>4a</u> at the time and date scheduled for the administrative hearing. This person's testimony is relevant to the issues for the following reason(s): (attach additional pages as necessary) <u>4b</u>		
☒ a subpoena duces tecum to compel <u>5a</u> to produce documentary evidence believed to be in his/her custody and control which is necessary		
-1- CS405.8A (Rev 02/91)		SUBSCRIBED AND SWORN TO before me, a Notary Public for the State of Montana on the date written above (SEAL) _____ Notary Public Residing at: _____ My Commission Expires _____

Please print all information requested.

- (1) Enter the name of the county you are in.
- (2) Enter your name.
- (3) Check the box which describes you. If you checked "Other," please describe your relationship to the proceedings.
- (4) Check this box if you want a subpoena.
- (4a) If you checked the box, enter the name of the person you want to have testify.
- (4b) If you checked the box, enter the reason(s) why you need this testimony.
- (5) Check this box if you want a subpoena duces tecum.
- (5a) If you checked the box, enter the name of the person who has records or documents you need for the hearing.
- (5b) If you checked the box, enter a description of the documents. You must be specific.
- (5c) If you checked the box, enter the reason(s) why you need the documents.
- (6) Date and sign in front of a Notary Public.

-2-

Supercedes: CS 405.9 (01/31/80)

CS 405.9

Department of Revenue

SECTION:

ADMINISTRATIVE HEARINGS

CHILD SUPPORT ENFORCEMENT

SUBJECT:

Decision: Issuance and Action

Introduction: The Department is responsible for enforcing an Order of the Hearings Officer to ensure that timely payments are made in accordance with the Fair Hearing Decision and Order, or Default Order.

DECISION: ISSUED AS AN ORDER--Within 20 days of the hearing, the Hearings Officer enters findings, conclusions, and a final decision determining liability and responsibility and/or future periodic support payments. Section 40-5-226, MCA.

JUDICIAL REVIEW--The decision establishing liability and future periodic support payments is superceded upon entry of a district court order for support to the extent the district court order is inconsistent with the hearing order or decision.

IMPLEMENTATION--

Decision is Favorable to Obligor--The Department promptly takes the action ordered in the final decision.

Decision is Adverse to Obligor--The debts determined, accrued, and not paid are subject to collection action by the Department without further notice or necessity of action by the Hearings Officer.

Note: Implementation may be stayed by the District or Supreme Court.

COPIES-- 1 copy of the Final Order is provided to obligor (and his representative), 1 copy to the Hearings Officer, 1 copy to each regional supervisor, 1 copy for the child support case file, and 1 copy is provided to the Child Support Enforcement Bureau.

SECTION:

ADMINISTRATIVE HEARINGS

SUBJECT:

Decision: Issuance and Action

COMPLIANCE

WITH THE ORDER: OBLIGOR APPEAL PERIOD--After service of the hearing order, the defendant has 30 days to file a petition for judicial review in District Court.

BUREAU ACTION--31 days after obligor receives Order, a Warrant of Dstraint may be filed according to Section 503.

Exception: A Default Order provides for appeals within 20 days of receipt of service. If total debt has not been received, or appeal filed, enforcement procedures should be placed in motion on the 21st day.

EXECUTION:

REGULAR PAYOR--If the defendant pays the established scheduled payment to satisfy the support debt and/or support liability, the Department of Revenue refrains from execution on the Order.

NON-PAYOR--If the defendant fails to make scheduled payments, secure a Writ of Execution and proceed according to Manual Section 503.

o o o

Department of Revenue

SECTION:

ADMINISTRATIVE HEARING

SUBJECT:

Denial or Dismissal

CHILD SUPPORT ENFORCEMENT

DENIAL OR
DISMISSAL:

GENERAL RULE--The Hearings Officer may not deny or dismiss a request for an Administrative Hearing unless:

- . The request for a hearing is withdrawn in writing by the obligor or his representative.
- . The obligor (or his representative) without sufficient explanation fails to appear at the hearing.
- . The request for hearing is filed more than 20 days after the date of service of notice of support determination.
- . The Department does not have jurisdiction over the subject matter, e.g.: court ordered conditions of support; visitation disputes; paternity.

WRITTEN RESPONSE--The Hearings Officer notifies the obligor in writing of the denial or dismissal. A copy of the notification is sent to the Child Support Enforcement Bureau.

Department of Revenue

SECTION:

ADMINISTRATIVE HEARING

SUBJECT:

Vacating Hearing

CHILD SUPPORT ENFORCEMENTVACATING
HEARING:

GENERAL RULE--The Child Support Enforcement Bureau moves to vacate a hearing when:

- . All efforts at serving Form CS-59, "Notice of Administrative Hearing" upon the Defendant have been exhausted, and
- . The Child Support Enforcement Bureau is unable to locate the Defendant.

PROCEDURE FOR VACATING HEARING--When a hearing request is determined abandoned, the Child Support Enforcement Bureau enters a "Motion to Vacate Hearing" to the Hearings Officer. Upon receipt of a "Motion to Vacate Hearing", the Hearings Officer issues an "Order Vacating Hearing".

SEE NEXT PAGES FOR SAMPLE
"MOTION" AND "ORDER"

SECTION:

SUBJECT:

ADMINISTRATIVE HEARING

Vacating Hearing

1 BEFORE THE DEPARTMENT OF REVENUE
2 OF THE STATE OF MONTANA

3 STATE OF MONTANA, acting by)
4 and through the Department of)
5 Revenue, ex rel.,)

6 Plaintiff,)

7 Defendant.)

8 vs.)

MOTION TO VACATE HEARING

9 Defendant.)
10

11 * * * * *

12 Comes now the Montana Department of Revenue, Child
13 Support Enforcement Bureau, acting by and through
14 _____, and moves this hearing
15 officer to vacate the hearing scheduled for
16 _____, 19____, in the above entitled cause pursuant to
17 the Montana Rules of Civil Procedure on the grounds the
18 Child Support Enforcement Bureau has exhausted all efforts
19 at serving Notice of Hearing upon the Defendant and the
20 Child Support Enforcement Bureau is unable to locate the
21 Defendant.

22 DATED this _____ day of _____, 19____.

23
24 DEPARTMENT OF REVENUE

25
26 By: _____
27 Child Support Enforcement
28 Bureau
29
30
31
32

SECTION

ADMINISTRATIVE HEARING

SUBJECT:

Vacating Hearing

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32BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANASTATE OF MONTANA, acting by)
and through the Department of)
Revenue, ex rel., _____)

Plaintiff,)

vs.)

Defendant.)

ORDERVACATING HEARING

Upon Motion of the Montana Department of Revenue, Child Support Enforcement Bureau and good cause appearing, the hearing scheduled for _____, 19____, in the above-entitled cause is vacated on the grounds the Child Support Enforcement Bureau cannot locate the Defendant for the purpose of serving Notice of Hearing.

DATED this _____ day of _____, 19____.

Hearing Officer _____

Department of Revenue

section:

ADMINISTRATIVE HEARINGS

subject:

Telephone Hearings

CHILD SUPPORT ENFORCEMENT

POLICY:

Because of Montana's vast size and sparse population, it is the policy of the CSEB to conduct administrative hearings by telephone conferencing methods whenever possible. Telephone hearings allow the CSEB to afford constitutional "due process" protection to obligors and alleged obligors no matter where they are, while utilizing limited resources like Hearing Officer and caseworker time most efficiently.

For the obligor or alleged obligor, telephone hearings reduce travel expenses, lost wages and inconvenience. The ability to take testimony by telephone serves the interests of justice because witnesses are more readily available.

Except for the matters discussed below, telephone hearings are conducted like in-person hearings. The same rules of proof, procedure and etiquette apply. Refer to CSE manual section 405.6 "Conduct of Hearing/Hearings Officer" and other sections in this manual for further information concerning administrative hearings.

NOTE--QUESTIONS: For any questions concerning the use of telephone conferencing methods to conduct administrative hearings, consult a CSE Staff Attorney. For questions concerning procedures used in setting and conducting telephone hearings, consult the Hearings Assistant.

section:

ADMINISTRATIVE HEARINGS

subject:

Telephone Hearings

PROCEDURE:

TELEPHONE HEARINGS

Responsibility

ACTION

. Caseworker/
Typist

1. EXCHANGE EXHIBITS IN ADVANCE: Since the parties and Hearing Officer are often not at the same location during a telephone hearing, exhibits must be exchanged prior to every hearing. In order to create a complete record in case of judicial review, the original exhibits should be forwarded to the Hearing Assistant, who will make copies, and forward them to the obligor. Copies of the exhibits as marked should be retained in the case record.

In the event matters are raised during the hearing or shortly prior to hearing (so as to preclude the prior exchange of documents) which require the introduction of an additional exhibit or exhibits, leave should be requested of the Hearing Officer to admit each exhibit subject to transmittal and objection by the opposing party after inspection. This procedure should be used only in the event of surprise. Careful case preparation will ensure that all relevant exhibits are transmitted prior to hearings.

NOTE -- UNCOOPERATIVE PERSONS: If any person, business, or governmental entity refuses to produce evidence, documents or testimony for presentation at an administrative telephone hearing, the CSEB or any other party may apply for a subpoena or subpoena *duces tecum* to compel cooperation. See Section CS-405.4 for definitions, forms and instructions for preparation of subpoenas and subpoenas *duces tecum*.

2. USE PROPER TELEPHONE ETIQUETTE: When conducting administrative hearings by telephone, extra care must be exercised so that everyone can hear and understand all that is said. Consequently, it is important to speak loudly and clearly into the transmitter. There should be no background

DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION



MARC RACICOT
GOVERNOR

PETER S. BLOUKE, PhD
DIRECTOR

STATE OF MONTANA

FAX # (406) 444-1370
(406) 444-4614

3075 N MONTANA, SUITE 112
PO BOX 202943
HELENA, MONTANA 59620-2943

August 1, 1995

To: All CSED Manual Holders
From: Gwen Kloeber, Policy Development Officer *gk*
Subject: New Manual Section
CS 405.12, Investigative Subpoena

Policy and Procedure

The enclosed Manual pages describe the legal requirements and practical considerations for obtaining an investigative subpoena. The CSED has been granted the authority to issue investigative subpoenas while providing services under Chapter 5 of Title 40 of the Montana Code Annotated. The investigative subpoena may be used during the course of an investigation when there is no pending administrative hearing action.

Consult with your supervisor or the CSED staff attorney before requesting an investigative subpoena.

Forms

Two forms are used to obtain the investigative subpoena. Both are available on WordPerfect and will be placed into SEARCHS document generation at a later date. The Affidavit for Investigative Subpoena (CS-405.8A) will eventually be available by choosing the investigative subpoena option for CS-405.8A on SEARCHS. Until available on SEARCHS document generation, the WordPerfect CS-405.8A must be used. The Investigative Subpoena (CS-405.12A) is a new form. Samples of the forms may be found at the end of the Manual section.

Instructions for Manual Maintenance

Insert section 405.12 in your manual. Revise the Table of Contents (page 5) by adding the new section under Administrative Hearing.

Enclosure

Supersedes : [new section]

CS 405.12

Department of Public Health and Human Services CHILD SUPPORT ENFORCEMENT	section: ADMINISTRATIVE HEARING
	subject: Investigative Subpoena

REFERENCES: Montana Code Annotated, §§ 40-5-202

DEFINITION: The investigative subpoena may be used during the course of an investigation when there is no pending administrative hearing action. It commands the custodian of specified information to provide the information to the CSED.

POLICY: The Legislature has granted the CSED the authority to issue investigative subpoenas while providing services under Chapter 5 of Title 40 of the Montana Code Annotated. The investigative subpoena may be issued by the agency in furtherance of its legislative mandate. The investigative subpoena is a regulatory tool. As such, its use is exclusively reserved to the agency.

The CSED may issue an investigative subpoena if the following conditions are met:

- the investigation must be for the purposes outlined in Chapter 5 of Title 40 of the Montana Code Annotated;
- the information sought is relevant to the issue being investigated; and,
- ▶ - the subpoena is reasonably specific to obtain relevant documents or described information.

Some of the more common uses of an investigative subpoena may be:

- ▶ - before the use of a Notice of Parental Responsibility, to obtain the information called for in a paternity affidavit;
- ▶ - before the use of a Notice of Financial Responsibility, to obtain the information called for in a financial affidavit; and,
- after an order has been issued to obtain information which will allow enforcement, such as bank account information.

section:
ADMINISTRATIVE HEARING

subject:
Investigative Subpoena

The CSED's subpoena power is limited by the U.S. Constitution's protection from unreasonable searches and seizures. Thus, any information sought must be relevant to the issues being investigated. Further, the production of the information may not be unreasonably burdensome to the person subpoenaed.

No subpoena, whether regular or investigative, issued by the CSED hearing office or by the District Court, guarantees unlimited access to all information. Some information is beyond the reach of any subpoena. This information is called "privileged information." Examples of privileged information not subject to compelled disclosure are: mediation sessions under MCA § 40-4-301 et seq and § 39-71-2410; proceedings of the medical review panel, § 27-6-704; proceedings of the medical-legal panel, § 27-1-703; and the evidentiary privileges regarding communication between parties such as attorney and client, husband and wife, and doctor and patient.

Some privileged information is conditional and may be susceptible to administrative subpoena. Examples include information in the possession of social workers, mental health counselors, direct-entry midwives, and health care providers.

Access to some information is limited by statute to judicial subpoenas or other court order and is not susceptible to administrative subpoena. These restrictive statutes, for the most part, prevent a state agency from disclosing information which it holds but may not prevent the disclosure of similar information held by one who is not a state agency, unless a privilege applies. Examples are: individual income tax records, corporation tax records, library records, electronic funds transfer, health maintenance organization records, non-privileged evidence given by a certified public accountant in the course of a licensure board proceeding, youth court records, confidential criminal justice information, out-of-wedlock birth, adult protective services information, confidential welfare information, records of the developmentally disabled, records of patients or former patients of mental health facilities, reports of stolen vehicles, information

section:
ADMINISTRATIVE HEARING

subject:
Investigative Subpoena

regarding a traffic accident not involving a conviction, and financial statements of warehouse operators and commodity dealers. Some information which is subject to statutory limitations on disclosure is already available to the CSED without a subpoena of any kind, such as some tax information and out-of-wedlock birth information.

Information regarding insurance transactions may be obtained through the use of a subpoena. It is arguable that student academic records maintained by the Montana University system are subject to administrative subpoena.

A party to the investigation or a third party may be served with an investigative subpoena. Service must be made by the sheriff of the county where the party resides, or where the documents are located.

If ordered to produce documents, the party should deliver the original documents, or clear copies of them, to the CSED.

The reasonable costs of preparing, copying and transmitting the documents requested are the responsibility of the CSED, as the CSED is the party requesting the investigative subpoena.

If the party fails to comply with the subpoena, an application for enforcement may be filed in the district court, or an administrative civil contempt action may be initiated under CS 503.5.

The CSED regional staff attorney should be consulted prior to an application for an investigative subpoena.

PROCEDURE:

Responsibility	Action
----------------	--------

UPON AGENCY REQUEST:

- | | |
|-------------|---|
| .Caseworker | 1. Prepares and executes form CS-405.8A, " <u>Affidavit of Necessity</u> ." |
|-------------|---|

section:
ADMINISTRATIVE HEARING

subject:
Investigative Subpoena

NOTE 1: Affidavit for Investigative Subpoena--User Access. The CS-405.8A option for the Affidavit for Investigative Subpoena will be available on SEARCHS at a future date. Select the "investigative subpoena" option. A WordPerfect version of the Affidavit for Investigative Subpoena will be available until the SEARCHS form is updated. A sample appears on page 6 of this section.

NOTE 2: Adjusting Affidavit Language--Requesting Information in CSED Form. The caseworker should consult a CSED Staff Attorney if questions of special usage or language arise. For example, if the investigative subpoena is being used to compel a party to provide the specific information called for in a CSED paternity or financial affidavit, the language should be adjusted to request production of the "information" rather than production of "described documents." See step 3 for corresponding adjustments to the language in the Investigative Subpoena itself.

-
- .Supervisor 2. Reviews affidavit and case file to determine whether the requested evidence is necessary, whether the request is unduly burdensome, and whether the form and content is correct.
- a. If the request is inappropriate or if information is incorrect, returns file to caseworker with appropriate case notes.
 - b. If the request is appropriate and correct, makes appropriate case notes and returns file to caseworker with any necessary corrections.
- .Caseworker 3. Makes any corrections to affidavit, and prepares original and one copy. Prepares original and one copy of CS-405.12A, "Investigative Subpoena." Prepares CS-401.3C "Praecipe" and stuffer for sheriff. Forwards original affidavit and subpoena form, the praecipe and stuffer to Hearings Assistant. Retains one copy of each document in case file.

section:
ADMINISTRATIVE HEARING

subject:
Investigative Subpoena

NOTE 1: Investigative Subpoena--User Access. The form CS-405.12A, "Investigative Subpoena" will be available on SEARCHS at a later date. Until it is placed on SEARCHS, it will be available in WordPerfect. An example of the form can be found on page 8 of this section.

NOTE 2: Adjusting Subpoena Language--Requesting Information in CSED Form. The caseworker should consult a CSED Staff Attorney if questions of special usage or language arise. For example, if the investigative subpoena is being used to compel a party to provide the specific information called for in a CSED paternity or financial Affidavit, the language should be adjusted to command the party to produce the "information" rather than the "documents, records, or files," and to inform the party he/she may comply informally by sending the requested "information" to the CSED in the form of a completed, signed, and notarized paternity or financial affidavit, with any appropriate attachments. If the party chooses to appear in person to provide the information, procedures in step 9 apply.

- .Hearings
Assistant 4. Checks completed subpoena form for completeness, form, and accuracy. Forwards acceptable packets to Hearing Officer for review and signature. If unacceptable, returns to caseworker for correction.
- .Hearing
Officer 5. Reviews investigative subpoena and affidavit. Determines whether the requested information/documents are relevant and whether production would be unduly burdensome. If acceptable, signs investigative subpoena and returns to Hearings Assistant. If unacceptable, writes "Denied" across face of document, initials, and returns to Hearings Assistant.
- .Hearings
Assistant 6. Affixes Department seal to signed subpoena form, makes three copies of the executed form. Forwards praecipe, original subpoena form and one copy to the appropriate sheriff for service. Retains original affidavit in hearing file. Retains one copy of subpoena for hearings file, and sends one copy to caseworker. If

section:
ADMINISTRATIVE HEARING

subject:
Investigative Subpoena

subpoena is denied, returns to caseworker.

- .Caseworker
7. Upon receipt of copy of issued subpoena, files in case file and monitors for Sheriff's return of service.
 8. Upon return by the Sheriff, notes date of service in the case file. Forwards original subpoena and sheriff's return to the Hearings Assistant. Retains a copy of sheriff's return of service in case file.
 9. If in responding to investigative subpoena party insists on delivering information to CSED orally (see step 3, NOTE 2), arranges for party to give information under oath, and documents information given. Two most common methods of obtaining and documenting sworn oral information are given below--both require in-person interviews at CSED office:
 - (1) Caseworker asks questions already printed in existing document, such as CSED paternity or financial affidavit, and completes form using answers given; caseworker then asks party to read completed document and sign declaration that information is true, in presence of a notary.
 - (2) Caseworker arranges for party to be placed under oath at beginning of interview (regional office notary can administer oath), and for interview to be tape recorded; caseworker conducts interview by asking and obtaining answers to necessary questions.
- Other methods are also available; caseworker should consult with CSED Staff Attorney to determine method most suitable to particular case.
10. If party does not respond to subpoena, consults CSED staff attorney regarding enforcement options.

SEE FOLLOWING PAGES FOR SAMPLES

section:
ADMINISTRATIVE HEARING

subject:
Investigative Subpoena

writes "Denied" across face of document, initials, and returns to Hearings Assistant.

.Hearings
Assistant

6. Affixes Department seal to signed subpoena form, makes three copies of the executed form. Forwards praecipe, original subpoena form and one copy to the appropriate sheriff for service. Retains original affidavit in hearing file. Retains one copy of subpoena for hearings file, and sends one copy to caseworker. If subpoena is denied, returns to caseworker.

.Caseworker

7. Upon receipt of copy of issued subpoena, files in case file and monitors for Sheriff's return of service.
8. Upon return by the Sheriff, notes date of service in the case file. Forwards original subpoena and sheriff's return to the Hearings Assistant. Retains a copy of sheriff's return of service in case file.
9. If party does not respond to subpoena, consults CSED staff attorney regarding enforcement options.

SEE FOLLOWING PAGES FOR SAMPLES

section:
ADMINISTRATIVE HEARING

subject:
Investigative Subpoena

**STATE OF MONTANA
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION**

Case Number:

Concerning:

IN RE THE SUPPORT OBLIGATION OF:

Obligee as of Notice Date

Obligor

Child(ren)

AFFIDAVIT FOR INVESTIGATIVE SUBPOENA

STATE OF MONTANA

)

:

ss.

County of _____

)

I, _____, having been first duly sworn upon oath say:

1. I am a duly authorized employee of the Montana Child Support Enforcement Division, charged with the duty of enforcing the laws of the State of Montana relating to child support.

2. In the course of my employment with the Division, I was assigned to investigate the case involving _____, a participant with the above case number.

3. As a result of my preliminary investigation, I have determined that additional information regarding _____ is necessary and relevant to the investigation of this case, because such information _____.

4. I am requesting that the Department issue an investigatory subpoena to compel _____ to produce for inspection and copying the following described documents, believed to be in his/her custody and control: _____.

The production of the described documents is a reasonable request and is not unduly burdensome.

DATED this ____ day of _____, 19__.

Signature _____

section:
ADMINISTRATIVE HEARING

subject:
Investigative Subpoena

SUBSCRIBED AND SWORN TO before me, a Notary Public for the State of Montana on the date written above.

SEAL

Notary Public

Residing at: _____

My Commission Expires: _____

CS-405.8A
(Rev. 08/95)

section:
ADMINISTRATIVE HEARING

subject:
Investigative Subpoena

**STATE OF MONTANA
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION**

Case Number:

Concerning:

IN RE THE SUPPORT OBLIGATION OF:

Obligee as of Notice Date

Obligor

Child(ren)

TO:

INVESTIGATIVE SUBPOENA

IN THE NAME OF THE STATE OF MONTANA, the Child Support Enforcement Division (CSED) commands you to produce and make available certain documents, records or files which are now in your custody. These documents, records or files are necessary to enable the CSED to perform statutory duty in enforcing the support laws of the State of Montana, as provided in Montana Code Annotated Title 40, Chapter 5.

Specifically, the documents, records or files which you are required to produce for inspection and copying are: _____

You are required to produce them on the _____ day of _____, 19 _____, by _____ o'clock a.m./p.m. at _____.

You may comply informally with this subpoena by sending the requested documents, records or files by the ___ day of _____, 19 ___ to the attention of Investigator _____ at the following address:

CHILD SUPPORT ENFORCEMENT DIVISION

section:
ADMINISTRATIVE HEARING

subject:
Investigative Subpoena

Failure to obey this subpoena is punishable in accordance with the provisions of law, including, but not limited to, contempt proceedings in District Court.

This subpoena is issued pursuant to the authority of Montana Code Annotated §40-5-202 (13)(c).

DATED this ____ day of _____, 19____.

(SEAL)

Administrative Law Judge

CS-405.12A
(New 8/95)

Department of Public Health and
Human Services

section:
ADMINISTRATIVE HEARING

CHILD SUPPORT ENFORCEMENT

subject:
Federal Offset Hearing

SUPERSEDES: CS 405.20, Federal Tax Intercept Supervisory Reviews, November 1, 1989.

REFERENCES: State v. Frank, 226 Mont. 283, 735 P.2d 290 (1987).

POLICY: A CSED federal offset hearing is available to any obligor dissatisfied with the results of an administrative review conducted by the regional manager in section CS 508.5. A hearing is also available to an obligor denied a review under the procedures in that section. The hearing is available at any time after a federal offset has actually occurred.

The purpose of the federal offset hearing is to satisfy the procedural due process requirements set forth in State v. Frank. Case law from this decision requires a full evidentiary hearing on the record by a hearing officer before the CSED can retain any money to satisfy arrearages accrued under an administrative order. Because the CSED updates the amount of arrears available for offset on a monthly basis, any given offset collection can include amounts accrued but not yet adjudicated by the CSED.

There is no Montana law granting "contested case" status to a CSED federal offset action; consequently, the decision from the federal offset hearing is not subject to judicial review. Any judicial remedy must be pursued in state, federal, or tribal court, as appropriate. Likewise, time frames associated with the federal offset hearing are set by CSED policy only, none being required under state or federal law.

PROCEDURES:

Responsibility	Action
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Office of the
Administrative
Law Judge
(OALJ)

1. Upon receiving a written request for a hearing concerning a federal offset administrative review, promptly identifies the case on SEARCHS, enters a SEARCHS case note for the request received, and generates a cover sheet listing the case number and identifying the package as a request for a federal

section: ADMINISTRATIVE HEARING**subject:** Federal Offset Hearing

offset hearing. Makes a copy of the request and any accompanying documents, and sends the copy with the cover sheet to the appropriate caseworker.

- Caseworker 2. Upon receiving a copy of the federal offset hearing request from the OALJ, proceeds as follows:
- a. Immediately places a hold on disbursement of any offset collections received toward non-TANF arrears in the case. Removes the hold if the hearing is denied in step 6; if the hearing is granted, awaits the outcome of the hearing.
 - b. Researches the case to determine whether both of the following conditions are met:
 - (1) The CSED has conducted (or has denied) an administrative review of the submission of the case for federal offset.

NOTE: Review Required in Existing "Case."
For purposes of determining whether an administrative review has occurred, the "case" referred to is the case last submitted. If the CSED previously submitted the obligor's arrears, then deleted the case when the arrears were paid off, then later submitted new arrears that accrued after the deletion, the submission after the deletion is considered a new "case" for federal offset purposes. The requirement for an administrative review will be satisfied only if there has been a review in the new case.

- (2) An offset in the submitted case has actually occurred. Proof of offset may be a copy of the FMS Notice of Offset, a listing in the OCSE monthly collection report, a SEARCHS payment record with the appropriate pay source, or (for incoming transfer cases, see section CS 508.5) the payment record of another state.

In special situations where there is reason to believe an offset has occurred but the Financial Management Service

section: ADMINISTRATIVE HEARING

subject: Federal Offset Hearing

(FMS) has not yet notified the CSED, contacts the federal Office of Child Support Enforcement (OCSE) Special Collections Unit and requests confirmation. (It may be necessary to make this request through the TAPP Supervisor.)

3. Within 5 working days of receiving the copy of the hearing request, prepares an affidavit stating the results of the research in step 2b; if applicable, attaches a copy of the administrative review decision or denial, or the proof of offset; signs the affidavit in the presence of a notary; and sends the original affidavit and any attachments to the OALJ, retaining a copy for the case file. Enters a SEARCHS case note for the affidavit prepared and sent.

In a separate communication, informs the OALJ of any dates or times the caseworker is not available for a hearing.

OALJ

4. Upon receipt of the affidavit sent in step 3, attaches the affidavit to the hearing request and forwards the request to the Administrative Law Judge.

Administrative
Law Judge
(ALJ)

5. Reviews the information in the affidavit and the hearing request and determines whether there is evidence the conditions in step 2 are met.
 - a. If so, grants the hearing and proceeds to step 9.
 - b. If not, denies the hearing; proceeds to step 7 if applicable.

OALJ

6. Within 10 working days of receiving the original hearing request, prepares, obtains the ALJ's signature on, and issues according to the determination in step 5, EITHER
 - a Notice and Order for Federal Offset Hearing, granting the hearing, setting a hearing date no fewer than 5 and no more than 10 working days in the future, and providing instructions for the telephone hearing and the exchange of exhibits, OR

section: ADMINISTRATIVE HEARING

subject: Federal Offset Hearing

- an order denying the hearing. The order must state the reasons for the denial and attach a copy of the caseworker's affidavit. The order must inform the obligor the denial will remain in effect until such time as the obligor provides evidence that (a) an administrative review of the submission for offset has been conducted or denied, and (b) an offset based on the submission has actually occurred. The order does not contain a provision for judicial review.

Sends copies of the order (granting or denying) to the obligor, the caseworker, and in a non-TANF case the obligee; retains the original in the hearing file.

If a hearing is granted and the obligor requests a postponement in writing, refers the request to the ALJ; if the ALJ determines there is good cause, enters a SEARCHS case note and reschedules the hearing for a later date.

If a hearing is denied and the obligor later requests a hearing on the same matter in writing, refers the request to the ALJ and takes appropriate action following the determination in step 7.

- ALJ 7. Upon receipt of a subsequent request for a hearing from an obligor whose original request was denied in step 6, reviews the obligor's request and determines whether there is now evidence the conditions in step 2 have been met. If so, grants the hearing and proceeds to step 9. If not, denies the hearing and takes no further action.
- Caseworker 8. If a hearing is granted, prepares exhibits, arranges for witnesses, and prepares a list of witnesses and exhibits. By the exhibits due date, sends the original exhibits and the list to the OALJ; sends copies of the exhibits and list to the obligor and, in non-TANF cases, the obligee.
- ALJ 9. Conducts a full evidentiary hearing on the federal offset. Issues at hearing are limited to the following:
- (1) Whether the amount of arrears certified for the period up through the actual offset was

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correct.

- (2) Whether the federal payment was properly subject to offset in this case.
- (3) Underlying issues such as
 - whether the CSED had jurisdiction and authority to act in retaining the offset to satisfy the arrears; or
 - whether there was a mistake of fact concerning the obligor's identity or the existence of the support obligation.
- (4) If applicable, whether the administrative review was properly denied on the basis of a previous opportunity to raise the contested issues.

If the obligor fails to appear for the hearing and no good cause for postponement has been shown, deems the request for hearing withdrawn, and instructs the hearing assistant to issue an order dismissing the hearing.

Evaluates the hearing record and makes a determination on the issues. If the administrative review was improperly denied, does not remand the case to the regional manager, but proceeds to determine any issues raised in (1) through (3) above. Enters a SEARCHS case note for the hearing held.

OALJ

10. Within 5 working days after the hearing is held, prepares, obtains the ALJ's signature on, and issues a CSED decision and order; the decision and order does not contain a provision for judicial review. Sends copies to the obligor, the caseworker, and in non-TANF cases the obligee. Enters a SEARCHS case note for the decision and order sent.

Caseworker

11. Upon receipt of the hearing decision and order, provides a copy to the regional manager or, in an incoming transfer case, sends a copy to the submitting state. Implements the order as follows:
 - a. If the order upholds the amount of arrears and the pay sources available for offset, removes any hold placed on disbursement of the offset

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collection in step 2a, and takes no further action.

- b. If the order changes the amount of arrears or the pay sources available for offset, proceeds in any substeps below that apply.
 - i. Requests the appropriate adjustment from TAPP; includes the date of the hearing decision in the adjustment request. Does not delay initiation of the adjustment process pending receipt of the offset funds from FMS.
 - ii. Immediately alerts the TAPP Supervisor to the review-related adjustment, for purposes of the special weekly update required in section CS 508.3.
 - iii. If required by the terms of the decision and order, excludes the case from future, pay source-specific offsets by suppressing the offset type(s) on SEARCHS.

TAPP
Supervisor

- 12. Upon being notified of an adjustment in step 11, notifies OCSE of the change in the submitted amount within 10 working days after the hearing decision.

[IN PROGRESS>> At the time of this writing an enhancement to automatically identify and report these adjustments to OCSE was not in place; until it is, the caseworker and TAPP Supervisor must continue to work together to comply with the federal time frames via manual process.]

Also, until the special weekly update required in section CS 508.3 is in SEARCHS production, if the adjustment results in a refund of an offset amount, notifies OCSE of the refund within one week of issuance.

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Telephone Hearings

noise or electrical interference present in the room. Other CSEB office personnel should be instructed that no interruptions or other incoming calls should be allowed during the hearing. All parties should use extra care to avoid talking at the same time, because the equipment used to record the hearing cannot receive two signals simultaneously.

If the connection is interrupted during the hearing, and you are cut off, hang up immediately. The Hearing Officer will call you back. Do not try to call the Hearing Officer.

3. USE A SPEAKER PHONE: Courts often express a preference for administrative telephone hearings conducted by speaker phone with the parties, witnesses, and advocates in the same room, and only the Hearing Officer in another location. Therefore, whenever possible, the obligor, the obligor's representative, and the witnesses should be invited to the CSEB regional office for a telephone hearing. Use of a speaker phone makes it especially important that quiet is maintained in the room. Any noise, such as the rustling of papers will cause the speaker phone to transmit. The noise will be recorded, and may obscure what was said.
4. EXCHANGE TELEPHONE NUMBERS: At the time exhibits are exchanged, the Hearing Officer should be advised of the telephone numbers of all persons, including witnesses, who will not be present in the CSE regional office. If the obligor has failed to provide a contact phone number on the request for hearing, one should be obtained and forwarded to the Hearing Officer unless the obligor agrees to be present at the regional office. If the obligor wishes to call witnesses who will not be present at the regional CSE office or a speaker phone or extension at the obligor's number, the number at which they can be reached should be provided prior to the hearing. It is acceptable, however, to provide the telephone number of a

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witness at the time of hearing, if the opposing party has had an opportunity to interview the witness prior to hearing, or has waived the right to do so.

5. OBTAIN COOPERATION: Some obligors and their Attorneys may object to the conduct of administrative hearings by telephone conferencing methods. They may have reservations about the inability to "confront" witnesses face-to-face or about the Hearing Officer's inability to observe the witnesses' "demeanor." If so, an attempt should be made to secure cooperation with a telephone hearing with an offer of a "de novo" in-person hearing if they are not satisfied with the telephone hearing. If, after completion of the telephone hearing, an in-person hearing is demanded, the telephone hearing will not prejudice the case, and all matters will be determined anew at the in-person hearing. At the in-person hearing, events which occurred at the telephone hearing should not be mentioned.

If the obligor or his Attorney will not agree to a telephone hearing, an in-person hearing must be scheduled. See section CS-405.9 for instructions concerning in-person hearings. Although Montana law does not prohibit telephone hearings, it does not require them, *except* in income withholding cases.

6. PROCEDURES AT THE CLOSE OF TELEPHONE HEARINGS: After the parties complete their evidence and arguments in a telephone hearing, the Hearing Officer will declare the hearing closed and (if appropriate) the matter submitted. Do not hang up, but stay on the line until the Hearing Officer can check the recording to see if everything came through clearly. If not, it may be necessary to repeat some of the testimony or arguments, so that the record is complete.

Department of Social and
Rehabilitation Services

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Overview

CHILD SUPPORT ENFORCEMENT

SUPERSEDES: CS 408.1 "Modifying Support Orders Overview"

REFERENCE: 42 USC § 666(a)(10); 45 CFR §§ 302.70(a)(10), 303.7(b)(6), 303.7(c)(7)(v), 303.8; MCA §§ 40-5-271, 40-5-272 and 40-5-273.

POLICY: The CSED will review the child support and health insurance orders in all open AFDC, IV-E Foster Care and Medicaid cases at least once every three (3) years. If the child support order differs significantly from the Montana Child Support Guidelines, or if the health insurance order does not require the Absent Parent to get and keep health insurance whenever it is available through employment or other group plan, the CSED will modify it accordingly.

The CSED will also timely process requests for review initiated by an Absent Parent, Custodial Person, or by the IV-D agency of another State in any open IV-D case.

Additionally, the CSED will periodically publicize the right to request administrative review and modification as part of its support enforcement services. The Non-AFDC application also contains notification of the right to request review and modification.

Procedures for reviewing support orders differ, based on how the review is initiated:

- Section 408.3 describes the procedures to be used when a IV-D Absent Parent, IV-D Custodial Person or the IV-D agency of another State requests review of a child support or health insurance order.
- Section 408.5 describes the procedures to be used when automated screening or a CSED caseworker identifies a need for review of a child support or health insurance order.

**SUMMARY OF
PROCEDURES:**

1. Review and modification initiated -- When an Absent Parent, Custodial Person or the IV-D agency of another State requests administrative review and modification of a support order, or when SEARCHS identifies a case for possible periodic review and modification, the Review and

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Modification Unit will, within 15 calendar days, screen the case to determine jurisdiction, appropriateness and priority.

2. Determining jurisdiction, appropriateness and priority -- Upon receipt of a referral or request for administrative review, the Review and Modification Unit reviews the document(s) and SEARCHS record to determine if Montana has or can obtain personal and subject matter jurisdiction to conduct a review. Appropriateness will be determined by applying the screening criteria, if any, applicable to the case. The priority of reviews will be established by the Review and Modification Unit. All cases will be reviewed no later than the 30th month after entry of the last order or the latest review.
3. Initiation of interstate reviews -- If the Review and Modification Unit determines that Montana does not have personal or subject matter jurisdiction to conduct a review of a support order selected or submitted for review, the case will be referred to the appropriate regional office for preparation of an interstate referral, URESA or UIFSA to the appropriate jurisdiction.
4. Registration of non-CSED orders -- If the Review and Modification Unit determines that Montana has or can obtain personal and subject matter jurisdiction to conduct a review, it obtains certified copies of all support orders not issued or previously registered by the CSED and all previous non-CSED modifications and registers them with the CSED Office of the Administrative Law Judge (OALJ) as provided in CS 500.2.
5. Issuing the Review Notice/Order to Produce -- Once the case has passed screening and any non-CSED orders have been registered, the Review and Modification Unit prepares and serves an administrative review notice package on each of the parties. The Notice informs the parties that a review will be conducted in 30 calendar days, and orders them to complete and return

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Montana Child Support Guideline Financial Affidavits and supporting documents to the Review and Modification Unit within 20 calendar days.

6. Fines -- If a party fails to timely complete and return a Financial Affidavit and supporting documents to the Review and Modification Unit, or if the information provided is later found to be incomplete, inaccurate or misleading, the Review and Modification Unit will request that fines be assessed against the party. If a party is found liable, the CSED Hearing Officer can levy a fine of up to \$500.00 per incident, which can be collected in the same manner as child support.
7. Discovery of income and assets -- The Review and Modification Unit is responsible for obtaining and serving administrative subpoenas upon the parents' employers and all other persons whose documents or testimony is required for review of a support order. The parties may apply to the Review and Modification Unit for subpoenas in administrative review cases. Discovery is limited to issues directly related to application of the guidelines. Subpoenas must be requested within 10 days of the date of service of the Review Notice.
8. Confidentiality limited -- All information subpoenaed or provided in an administrative review will be exchanged with the other party(ies). Information not directly related to application of the guidelines, such as addresses and telephone numbers of the parties, will not be exchanged. Parties may request that sensitive information be sealed, obliterated or otherwise protected in any exchange.
9. Review of Financial Information -- At least 20 days from date of service of the Review Notice on the last party, the Review and Modification Unit reviews the information received from parties, employer(s) and other persons and does a preliminary guideline computation and issues the Notice to Appear.

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10. Issuing Notice to Appear -- When sufficient information to apply the Montana Child Support Guidelines is gathered, the Review and Modification Unit sets a date for the Review Hearing and issues an Order to Appear by telephone to the parties.

11. Review Hearing -- At least 30 calendar days after service of the Review Notice, the Child Support Arbitrator conducts a recorded telephone conference with the parties and subpoenaed witnesses. The Arbitrator reviews the financial information and the support amounts calculated using the guidelines; encourages the parties to reach an agreement concerning the proper amount of support; rules on requests for variances from the guidelines; and if an agreement cannot be reached, prepares, files and serves a Notice of Proposed Modification, which recommends a resolution of the case.

All Notices of Proposed Modification will include assessment of fees against the non-prevailing party, unless the Arbitrator determines that payment of fees would create a hardship on the party or the party's household.

12. Notice of Proposed Modification -- A copy of the Arbitrator's Notice of Proposed Modification is filed in the OALJ, along with the record of the Review Hearing. The Notice advises the parties that if they do not agree with the findings of the Arbitrator they must challenge the Notice by filing a Request for Hearing with the OALJ within 30 calendar days.

13. No Hearing Request received -- If no party files a Request for Hearing within 30 calendar days, a CSED Hearing Officer issues a final administrative order adopting the provisions of the Notice of Proposed Modification.

14. Modification Challenge Hearing -- If a Hearing Request is received within 30 calendar days, the OALJ will schedule a hearing at least 60 calendar days after service of the Review Notice. The telephone hearing will be conducted by a CSED Hearing Officer, and the parties will

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have an opportunity to dispute the findings of fact, conclusions of law, variances and guideline calculations of the Arbitrator. The parties may present additional evidence only if it could not reasonably have been produced at the Review Hearing. The Hearing Officer must accept the Arbitrator's findings, conclusions, calculations and variance determinations unless they are shown to be clearly erroneous or not supported by substantial credible evidence.

15. Hearing order -- After the hearing, the Hearing Officer will issue a final agency decision on the proper disposition of the case.
16. Judicial Review -- Within 30 calendar days after hearing, an aggrieved party may file a petition for judicial review in a district court of the state of Montana pursuant to the Montana Administrative Procedure Act.

**STATE OF MONTANA
DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION**

DATE: _____

TO: _____

CASE NUMBER: _____

INSTRUCTIONS TO PARTY REQUESTING MODIFICATION

Read this letter carefully before you complete the enclosed "Modification Request" and "Financial Affidavit". The Montana Child Support Enforcement Division (CSED) is required to review support orders for modification. If any of the following circumstances apply, the CSED will deny the request for modification:

- jurisdictional conflict. The CSED will deny a request for modification if a modification action is pending in a court or another administrative agency.
- no CSED case. The CSED will deny a request for modification if the Montana CSED is not providing support enforcement services.

If none of the above circumstances apply, the request for modification will be reviewed. Limitations on the modification process include:

- Modification will be limited to the issues of child support and health insurance. Custody, visitation and other issues cannot be addressed by the CSED.
- Modification will not reduce past due support amounts.

To request a modification, you must answer all of the questions completely and submit the enclosed "Modification Request" and "Financial Affidavit". When the CSED receives the completed documents, a child support worker will review the information you provide, along with information routinely available to the CSED. The caseworker will determine if the child support order is eligible for modification. The CSED will notify you of the results of the review by issuing a "Notice Concerning Modification Request" which will be mailed to or personally served upon both the absent parent and the custodian. **Please be aware that any information furnished in your modification request materials, including your social security number, may be used to enforce your child support obligation.**

If the child support order is eventually modified by the CSED, the order may be subject to certain requirements of federal and Montana law. These requirements include, but are not limited to:

- Future review and modification (subject to the laws and rules in effect at that time).
- Immediate income withholding.
- Unemployment insurance benefit interception.
- Workers Compensation benefit interception.
- Social Security benefits interception.
- Federal and state income tax refund intercept.
- Registration to create a lien on property.
- Seizure of real and personal property.
- Contempt proceedings.
- Garnishment or mandatory military allotment.
- Full IRS collection.
- Federal Court proceedings.
- Requirement to post bond or security.
- Reports of debt to credit bureaus.
- URESA and Interstate enforcement.

ALL MODIFIED ORDERS WILL REQUIRE THE ABSENT PARENT TO GET AND KEEP HEALTH INSURANCE WHENEVER IT IS AVAILABLE THROUGH EMPLOYMENT OR UNION.

THE MONTANA CSED DOES NOT REPRESENT THE ABSENT PARENT OR CUSTODIAN IN ANY MODIFICATION ACTION.

You may contact the CSED office at the address listed above if you have questions.

Department of Social and
Rehabilitation Services

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CHILD SUPPORT ENFORCEMENT

SUPERSEDES: CS 408.3 "Modifying Support Orders -- At Parties Request"

REFERENCE: 42 USC § 666(a)(10); 45 CFR §§ 302.70(a)(10), 303.7(b)(6), 303.7(c)(7)(v), 303.8; MCA §§ 40-5-271, 40-5-272 and 40-5-273.

POLICY: The CSED will timely process requests for review initiated by an Absent Parent, Custodial Party, a CSED caseworker or by the IV-D agency of another State in any open IV-D case. Within 15 calendar days of receiving a Request for Review, the Modification Specialist must determine if administrative review of a support order is appropriate. The review must be completed within 180 calendar days after a determination that a review is appropriate, or within 180 calendar days after the non-requesting party is located, whichever occurs last.

This section describes the procedures to be used when a IV-D Absent Parent, IV-D Custodial Party or the IV-D agency of another State requests review of a child support or health insurance order.

Section 408.5 describes the procedures to be used when automated screening or a CSED caseworker identifies a need for review of a child support or health insurance order.

PROCEDURE:

Responsibility

ACTION

CSED Caseworker
or Review and
Modification
Unit

1. Information provided. When contacted by an Absent Parent, an Custodial Party or a representative of a IV-D agency in another State, prepares and mails an information packet to the person requesting the information. The packet consists of:
 - the CSED publication "Modifying Your Child Support Order"; and,
 - the CSED publication "Child Support

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- Guidelines -- A User's Guide"; and,
- a copy of form CS-408.3A, "Request for Review"; and,
- if it can be determined that the person requesting information is an Absent Parent or Custodial Party who is not a party in an open case in which the CSED is providing support enforcement (IV-D) services, a Non-AFDC Application.

The packet instructs the party desiring an administrative review and modification to send all requests for information and any Request for Review directly to the Review and Modification Unit. However, requests may be received in the CSED regional offices. If so, the CSED caseworker shall immediately forward the request to the Review and Modification Unit.

Modification
Specialist

2. **Request screened.** Within 15 calendar days after receiving a Request for Review, examines the document(s) provided by the party requesting the review and the SEARCHS records, if any, related to the party's case; makes a determination according to steps 3 through 9 below; notifies all parties whether a review will be conducted.

NOTE -- "RECEIVED" DEFINED: For purposes of this manual section, a Request for Review is "received" on the date all information necessary for the Modification Specialist's determinations in steps 3 through 9 below are received in the Review and Modification Unit.

3. **Open IV-D case.** Determines if the CSED has an open IV-D case in which it is enforcing a child support or health insurance obligation.
 - a. If so, proceeds to step 4.
 - b. If not, determines if the CSED had a previous IV-D case that was closed when the IV-A, XIX, or IV-E agency found pursuant to 45 CFR § 302.31(c) and either 42 CFR § 433.147 or 45 CFR §§ 232.40 through 232.49 that a necessary party had good cause for refusing to cooperate, and that support

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enforcement could not proceed without risk of harm to the child or caretaker relative.

- i. If so, prepares and mails form CS-408.3B, "Notice Concerning Review Request" to the parties advising that review is not available because the case has been closed by authority of 45 CFR § 303.11(b)(10). Encloses a Request for Hearing form. Skips to step 10.
 - ii. If not, prepares and mails form CS-408.3B, "Notice Concerning Review Request" to the parties advising that an administrative review cannot be conducted until a IV-D case is opened and explaining how to open a IV-D case. Encloses a Non-AFDC application. If the application is timely returned, or a UIFSA or interstate IV-D transmittal is timely received, returns to step 2.
4. Case closable for good cause. For an open IV-D case determines if the IV-A, XIX, or IV-E agency has found pursuant to 45 CFR § 302.31(c) and either 42 CFR § 433.147 or 45 CFR §§ 232.40 through 232.49 that a necessary party has good cause for refusing to cooperate, and that support enforcement may not proceed without risk of harm to the child or caretaker relative.
- a. If so, prepares and mails form CS-408.3B, "Notice Concerning Review Request" to the parties advising that review is not available because the case is being closed by authority of 45 CFR § 303.11(b)(10). Encloses a Request for Hearing form. Refers case to caseworker for closure. Skips to step 10.
 - b. If not, proceeds to step 5.

NOTE 1 -- LIMITED GOOD CAUSE: Step 4b above includes "good cause" cases where enforcement is proceeding under the restrictions of 45 CFR § 302.31(c), which prohibit the involvement of the

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caretaker or other relative.

NOTE 2 -- NECESSARY PARTY DEFINED: For purposes of administrative review and modification of support and health insurance orders, the term "necessary party" includes the Mother and Father; in third-party cases, it includes the custodial person entitled to receive support under an order or an assignment of support; and in AFDC, IV-E foster care, MAO and Non-AFDC/MAO cases, it includes the CSED.

5. **Verified addresses.** Determines whether the address of a necessary party is verified:
 - a. if so, proceeds to step 6.
 - b. if not, verifies that the case is in "locate" status on SEARCHS, and makes appropriate entries. Prepares and mails form CS-408.3B, "Notice Concerning Review Request" to the located parties advising that a necessary party's address is not verified; that locate activities are underway; and that the Request for Review will be examined within 15 calendar days after the necessary party's address is verified.
6. **Services already being provided.** Unless Montana is the proper jurisdiction under UIFSA, determines whether review and modification services are being provided by the IV-D agency of another State:
 - a. if apparent from the available information, prepares and mails form CS-408.3B, "Notice Concerning Review Request" to the parties with a finding that a review is not available because similar services are already being provided by another IV-D agency. Encloses a Request for Hearing form. Skips to Step 10.
 - b. if not apparent from the available information, proceeds to step 7.

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7. Modification action pending. Determines if a review, modification or modification action is pending in a District Court of the State of Montana or in a Court or administrative agency of another State:
- a. if apparent from the available information, prepares and mails form CS-408.3B, "Notice Concerning Review Request" to the parties with a finding that a review is not available because a review, modification or modification action is pending in another forum. Encloses a Request for Hearing form. Skips to step 10.
 - b. if not apparent from the available information, proceeds to step 8.
8. 30 months or significant change. Determines whether 30 months have elapsed since the order was entered, last reviewed or modified:
- a. if so, proceeds to step 9.
 - b. if not, determines whether a significant change of circumstances has occurred since the order was entered, last reviewed or

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modified. For purposes of this section, a "significant change of circumstances" includes, but is not limited to:

- an increase or decrease in a parent's net available resources of 25% or more;
- one or more of the children have attained the age of majority, become otherwise emancipated or died;
- one or more of the children have moved from one parent's home to the home of the other parent. The move must be made with the intent that it be permanent and must be made with the written consent of the custodial parent, or by order of a Court of competent jurisdiction;
- a child has developed special needs which were not considered in the original order;
- the Absent Parent may have become disabled and Social Security benefits which were not considered in the original order are being paid to the children;
- there have been new guidelines adopted since the order was entered, last reviewed or modified; or the order was set without reference to the guidelines.

If a significant change of circumstances has not occurred, prepares and mails form CS-408.3B, "Notice Concerning Review Request" to the parties with a finding that a review is not available because less than 30 months have elapsed since the order was entered, last reviewed or modified and no significant change of circumstances has occurred. Encloses a Request for Hearing form. Skips to step 10.

If a significant change of circumstances has occurred, proceeds to step 9.

9. Personal and subject matter jurisdiction.
Determines whether the CSED has or can obtain

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personal and subject matter jurisdiction to conduct a review under Constitutional, UIFSA and case Law, according to the policies of the CSED:

- a. if so, skips to step 13.
- b. if not, and the State having jurisdiction to conduct a review and modification can be determined, skips to step 11.
- c. if not, and the State having jurisdiction to conduct a review and modification cannot be determined, prepares and mails form CS-408.3B, "Notice Concerning Review Request" to the parties with a finding that a review is not available because the CSED cannot obtain personal or subject matter jurisdiction to conduct a review. Encloses a Request for Hearing form. Skips to step 10.

If the records available to the Review and Modification Unit do not contain sufficient information to make a jurisdictional determination, prepares and mails form CS-408.3C, "Non-Resident/Modification Jurisdiction Affidavit" to the Custodian of the child(ren) and, if appropriate, the Absent Parent. When the completed affidavit is received, completes this step.

If, under UIFSA law and CSED policy, Montana is the proper forum for modification, but personal jurisdiction over one of the parties cannot be otherwise obtained, prepares and mails form CS-408.3D, "Waiver of Personal Jurisdiction" to the party with a request that it be signed, notarized and returned to the Review and Modification Unit. If a properly signed and notarized waiver is received, skips to step 13.

NOTE -- REQUEST CANNOT BE WITHDRAWN: Once the Modification Specialist has determined that a request for review of a support order can be processed, the review procedure cannot be terminated unless the CSED closes its IV-D case. If a Non-AFDC applicant requests closure of the case during a review, the other party will be

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afforded an opportunity to apply for IV-D services, so that the review can be completed.

10. Request timely received. If a Request for Hearing is received by the Office of the Administrative Law Judge within 23 calendar days, skips to step 25.

If not, makes the appropriate notations on the SEARCHS system and stop here.

11. Interstate review and modification. If the State of Montana does not have personal and subject matter jurisdiction to conduct an administrative review and modification of a support order, and the State which has jurisdiction can be identified, immediately notifies the appropriate Child Support Technician that an interstate transmittal, UIFSA petition must be prepared. Advises the Technician of the date the Request for Review was received, and transmits the request and supporting documents to the appropriate CSED Regional Office.

Child Support
Technician

12. Interstate request initiated. Within 20 calendar days after the receipt of sufficient information to conduct a review, prepares and transmits UIFSA documents to the responding State.

Modification
Specialist

13. Non-CSED orders registered. Obtains certified copies of all support orders not issued or previously registered by the CSED and all previous non-CSED modifications. Registers them in the CSED Office of the Administrative Law Judge (OALJ) as provided in CS ~~500.2~~ 408.7

~~The certified copy(ies) and form CS-405.15A, "Request for Registration" must be forwarded to the CSED Hearings Office before proceeding to the next step. Diaries receipt of CS-405.15B, "Notice of Registration".~~

NOTE -- PRIORITIZATION. The order in which administrative reviews will be conducted is

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established by the Review and Modification Unit, in accordance with CSED and office policy. If the Review and Modification Unit Determines that a review is appropriate, the review will be completed no later than 180 calendar days after the Review Request was received.

14. Review Notice/Order to Produce issued. Prepares an administrative review notice package for each necessary party (except the CSED) consisting of:

- form CS-408.3E, "Review Notice and Order to Produce"
- form CS-404.6A, "Financial Affidavit."
- form CS-405.8A, "Affidavit of Necessity"
- form CS-401.3G "Praecipe" or form CS-405.1 "Acknowledgement of Service"

Makes copies as necessary. Initiates service of the notice packages on all necessary parties. If the CSED is a necessary party, sends only the Review Notice and the Request for Hearing to the CSED caseworker, along with an Acknowledgment of Service. Retains one copy of the Review Notice in the case file.

NOTE -- MONTANA AS RESPONDING STATE: If Montana is acting as a responding state on a UIFSA, URESA or Interstate request from another State, the initiating state is considered the agent for the party receiving IV-D services in that State. In such cases, the notice packet should be mailed to the initiating IV-D agency for service along with form CS-405.1, "Acknowledgement of service".

Diaries the case for Sheriff's return or Acknowledgement of Service". Each parent has 20 calendar days from the date of service to return the Financial Affidavit and supporting documents.

NOTE -- ALL AP CASES CONSIDERED: Whenever practical, cases involving the same Absent Parent should be "linked" during review, even if a Request for Review is received in only one. This assures that all cases will be considered together, and equitable support orders can be

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entered taking all applicable circumstances into consideration. However, if difficulties arise in simultaneously processing cases, complete the first families' review before completing subsequent families' reviews. In no case may this policy delay review of an order more than 30 months old.

15. Discovery of income and assets. After receiving evidence that all necessary parties have been served, prepares and issues form CS-405.8C, "Subpoena Duces Tecum" and one copy to the parties' employers, as appropriate.

If an Affidavit of Necessity requesting the discovery of documents was timely received, determines if the subpoenaed information is directly related to application of the guidelines. If so, prepares and issues form CS-405.8C, "Subpoena Duces Tecum" and one copy to the person or entity named in the Affidavit of Necessity.

Mails to appropriate Sheriff(s) along with a praecipe containing the instructions for service.

NOTE -- DISCOVERY OF INFORMATION: The Review and Modification Unit is responsible for preparing, issuing and serving administrative subpoenas on the parents' employers and all other persons with documents or testimony required for the Review Hearing.

16. Financial information recorded. Monitors return of financial information. If necessary financial information or subpoenaed documents are not timely received, initiates administrative contempt procedures to compel production of the information.

When sufficient financial information is received, but no sooner than 20 calendar days from the date of service of the Review Notice upon the last necessary party, reviews the information and records it on SEARCHS. Prints the guideline worksheet and places it in the case file record. Transmits the case file to

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the Child Support Arbitrator for evaluation.

Child Support
Arbitrator

17. Case file record examined. Examines the case file record and determines the need for additional information. Conducts additional investigation and discovery as necessary.

18. Notice to appear issued. When sufficient information to conduct a review is gathered, but no sooner than 30 calendar days from the date of service of the Review Notice on the last necessary party, prepares and mails form CS-408.3F, "Notice of Review Hearing/Order" to the parties. Diaries exchange of hearing exhibits.

If an Affidavit of Necessity requesting the testimony of a witness was timely received, determines if the subpoenaed testimony is directly related to application of the guidelines. If so, prepares and issues form CS-405.8B, "Subpoena" and one copy to the person or entity named in the Affidavit of Necessity.

Mails to appropriate Sheriff(s) along with a praecipe containing the instructions for service.

19. Exhibits exchanged. When all hearing exhibits are received, but neither sooner than 10 calendar days nor later than 5 calendar days prior to the Review Hearing, marks, copies and mails hearing exhibits to all necessary parties.

NOTE -- CONFIDENTIALITY LIMITED: All information subpoenaed by or provided to the Review and Modification Unit in an administrative review will be exchanged with the other necessary party(ies). Information which is not required for application of the guidelines, such as addresses and telephone numbers, will not be exchanged. Parties may request that sensitive information be sealed, obliterated or otherwise protected in any exchange.

20. Review hearing conducted. Conducts a recorded telephone Review Hearing with the necessary parties and other witnesses. Using the

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subpoenaed information, the exhibits and the testimony received at the hearing, calculates a support amount using the SEARCHS guideline software. Encourages the parties to reach an agreement concerning the facts and the proper amount of child support. Rules on requests for variances from the guidelines made by the parties. If an agreement is reached, prepares and mails form CS-408.3G, "Modification Consent Order" to the parties for signature. Diaries return of signed original.

NOTE -- REQUEST CANNOT BE WITHDRAWN: Once review of a support order is requested, the review procedure cannot be terminated unless the IV-D case is closed by CSED. If a Non-AFDC applicant closes the case during a review, the other party will be afforded an opportunity to apply for IV-D services, so that the review can be completed.

21. Consent order submitted. Upon receiving the signed Modification Consent Order, submits the original to the CSED Hearings Officer for approval. Retains one copy in the case file record. Diaries receipt of copies of the filed order and (if applicable) abstract. Skips to step 28.

NOTE -- FINES: Fines will be assessed to punish parties who bring frivolous requests, who raise frivolous defenses, or who, without reason, refuse to sign a consent order. The fine can be up to \$500.00 per person per incident.

22. Proposed modification issued. Within 20 calendar days after an administrative review hearing is conducted, and if an agreement from the necessary parties to a proper amount of support could not be obtained, prepares and mails a copy of the Notice of Proposed Modification to each of the parties. Retains the original in the case file. The notice will contain findings of fact and conclusions of law. It may include one or more of the following:

- a. a determination that the difference between the order amount and the guidelines amount

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is negligible. If so, there will be no change in the amount of the support order. A determination that the difference is negligible does not preclude the order from being modified to allow Social Security benefits paid to the children as a result of the Absent Parent's disability to be credited against the support obligation, or entry of an order requiring the Absent Parent to get and keep health insurance coverage for the child(ren).

- b. a proposal that the support order be modified. The proposal may include an increase or decrease in the amount of support, including variances; credit for Social Security benefits and supplements for the child(ren)'s special needs; and an order that the Absent Parent get and keep health insurance whenever it is available through employment or union.
- c. a determination that there is insufficient information to apply the guidelines. If so, the order will not be changed.

Unless there is a determination that the non-prevailing party is indigent or that payment of fees would create an undue hardship for the party or the party's household, the Notice of Proposed Modification will include assessment of fees as provided in rules promulgated by the CSED. Judgments for fines will be issued separately, by the CSED Hearing Officer.

NOTE -- FAILURE TO APPEAR AT REVIEW HEARING: If a necessary party does not appear or participate at the Review Hearing, the Child Support Arbitrator shall determine if there is sufficient credible evidence on the record to apply the Montana Child Support Guidelines. If so, the Notice of Proposed Modification can be issued. If not, the Arbitrator will use the administrative contempt procedures to compel the production of information or appearance by the uncooperative party.

23. Administrative review records filed. After

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mailing copies of the Notice of Proposed Modification to the parties, files the Notice and all documents related to the administrative review in the CSED Office of the Administrative Law Judge, along with the taped record of the Review Hearing. Diaries for the 33rd calendar day for receipt of Request for Hearing.

Hearings
Assistant

24. No hearing request timely received. If no Request for Hearing is filed in the Office of the Administrative Law Judge on or before the 33rd calendar day after mailing the Notice of Proposed Modification, prepares and submits modification order to a CSED Hearing Officer. Diaries return of signed order and (if applicable) abstract. Skips to step 28.

25. Modification challenge hearing scheduled. If a Hearing Request is timely received, prepares form HR-14, "Notice of Hearing" scheduling a hearing before a CSED Hearing Officer. The hearing date must be at least 60 calendar days after the date the Review Notice was served on the last necessary party. Makes copies and mails one to each necessary party. Retains original in the hearing file.

Hearing Officer

26. Modification hearing conducted. Conducts a recorded telephone hearing. The hearing is limited to questions of law, determinations whether the findings of the Child Support Arbitrator are supported by the record and determinations whether the child support guidelines were correctly applied. The parties shall not be allowed to present any additional evidence unless it could not reasonably have been presented at the Review Hearing. The Hearing Officer will accept the Arbitrator's findings, conclusions, calculations and variance determinations unless they are shown to be clearly erroneous, based on incorrect conclusions of law or are not supported by substantial credible evidence.

27. Hearing order issued. Within 20 calendar days after the modification challenge hearing is concluded and the record is closed, prepares, copies and mails a final administrative order to

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each of the parties. The order which may include one or more of the following provisions:

- a. an approval and adoption of the Arbitrator's findings, conclusions, calculations and variances;
- b. a change in all or any part of the Arbitrator's findings, conclusions, calculations and variances;
- c. a rejection of the Arbitrator's findings, conclusions, calculations and variances in whole or in part;
- d. an order remanding the matter to the Arbitrator with instructions for further review.

28. Order signed. Signs the order and transmits it to the Hearings Assistant for filing and (if applicable) abstracting.

Hearings
Assistant

29. Order filed. Files signed original order. Mails one copy to each party. If the order modifies, amends or otherwise changes the previous order, prepares Abstract of Final Administrative Order and files it with the Clerk of the Montana District Court which entered the original support order. If the original support order was issued outside Montana, or by a Tribal Court, files the abstract in the District Court of the Montana County where the Absent Parent resides or owns property. If the Absent Parent does not reside or own property in Montana, files the abstract in the Montana County where the Custodial Party or the Child resides. Diaries return of filed abstract from the Clerk of Court.

30. Order mailed to parties. Upon receiving copy of filed abstract, makes copies and mails one copy to each party. If the original support order was issued outside Montana or by a Tribal Court, mails one copy of the administrative modification order to the Clerk of the Court for filing in the original cause number. Retains

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originals in file.

31. Judicial Review available. Within 30 calendar days after receiving the Hearing Officer's final administrative order, any aggrieved Non-CSED party may file a petition for judicial review in a district court of the state of Montana under the Montana Administrative Procedure Act.

Modification
Specialist

32. Record keeping. Upon receipt of a copy of the signed, filed administrative modification order and (if applicable) copy of the filed Abstract of Final administrative Order, places copies in case file record and makes appropriate case notes and SEARCHS changes.

Department of Social and
Rehabilitation Services

section:
Review and Modification
of Support Order

CHILD SUPPORT ENFORCEMENT

subject:
Initiated by the CSED

SUPERSEDES: CS 408.5 "Modifying Support Orders -- At CSED Request"

REFERENCE: 42 USC § 666(a)(10); 45 CFR §§ 302.70(a)(10), 303.7(b)(6), 303.7(c)(7)(v), 303.8; MCA §§ 40-5-271, 40-5-272 and 40-5-273.

POLICY: The CSED will review the child support and health insurance orders in all open AFDC, IV-E Foster Care, Non-AFDC Medicaid Only and Medicaid Only cases at least once every 36 months, and will modify them as appropriate. Periodic automated screening by SEARCHS identifies cases for Administrative Review and prepares a printed report of the case information. CSED Caseworkers may also identify cases in the ordinary course of CSED enforcement activities in which review of the support order appears appropriate.

Within 15 calendar days of receiving a report or a request for review, a Child Support Technician will determine if administrative review of a support order is appropriate. The review will be completed within 180 calendar days after a determination that a review is appropriate, or within 180 calendar days after the non-requesting party is located, whichever occurs last.

This section describes the procedures to be used when a SEARCHS screening or CSED caseworker identifies a case in which review of a support or health insurance order appears appropriate.

Section 408.3 describes the procedures to be used when a IV-D Absent Parent, IV-D Custodial Person or the IV-D agency of another State requests review of a child support or health insurance order.

PROCEDURE:

Responsibility

ACTION

SEARCHS

1. **Automated screening.** Conducts periodic review of all open IV-D cases with verified addresses. If 30 or more months have elapsed since the order was entered, last reviewed or modified and the child is eligible for AFDC, IV-E Foster Care, Non-AFDC Medicaid Only or Medicaid Only services, prepares a printed report of the case

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information. Transmits the report to the Review and Modification Unit. Skips to step 3.

Caseworker

2. **Routine casework.** If in the course of ordinary casework, a case is identified in which review of the support order appears appropriate, prepares form CS-408.3H, "Request for Review". Transmits the original to the Modification unit, retaining a copy in the case file. Diaries return of the Notice Concerning Review Request or Review Notice.

NOTE -- FACTS INDICATING NEED FOR REVIEW: Examples of facts encountered in the ordinary course of casework indicating a need for review include: a parent's income may have significantly increased or decreased since the order was entered; one of the children may have attained the age of majority, moved from one parent's home to the home of the other parent, or may have developed special needs which were not considered in the original order.

Modification
Specialist

3. **Report or request screened.** Within 15 calendar days after receiving a SEARCHS report or a Request for Review, examines the SEARCHS records related to the case; makes a determination according to steps 4 through 9 below. Notifies the requesting party and, if appropriate, the other parties whether a review will be conducted.

NOTE -- "RECEIVED" DEFINED: For purposes of this manual section, a SEARCHS report or Request for Review is "received" on the date all information necessary for the Modification Specialist's determinations in steps 4 through 9 below are received in the Review and Modification Unit.

4. **Case closable for good cause.** Determines if the IV-A, XIX or IV-E agency has found pursuant to 45 CFR § 302.31(c) and either 42 CFR § 433.147 or 45 CFR §§ 232.40 through 232.49 that a necessary party has good cause for refusing to cooperate, and that support enforcement may not

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proceed without risk of harm to the child or caretaker relative.

a. If so, prepares and mails form CS-408.3B, "Notice Concerning Review Request" to the parties advising that review is not available because the case is being closed by authority of 45 CFR § 303.11(b)(10). Encloses Request for Hearing form. Refers case to caseworker for closure. Skips to step 10.

b. If not, proceeds to step 5.

NOTE 1 -- LIMITED GOOD CAUSE: Step 4b above includes "good cause" cases where enforcement is proceeding under the restrictions of 45 CFR § 302.31(c), which prohibit the involvement of the caretaker or the other relative.

NOTE 2 -- NECESSARY PARTY DEFINED: For purposes of administrative review and modification of support and health insurance orders, the term "necessary party" includes the Mother and Father; in third-party cases, it includes the custodial relative entitled to receive support under an order or an assignment of support; and in AFDC, IV-E foster care, MAO and Non-AFDC/MAO cases, it includes the CSED.

5. Verified addresses. Determines whether the address of a necessary party is verified:

a. if so, proceeds to step 6.

b. if not, verifies that the case is in "locate" status on SEARCHS, and makes appropriate entries. Prepares and mails form CS-408.3B, "Notice Concerning Review Request" to the located parties advising them that a necessary party's address is not verified and that locate activities are underway.

6. Services already being provided. Unless Montana is the proper jurisdiction under UIFSA, determines whether review and modification

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services are being provided by the IV-D agency of another State:

- a. if apparent from the available information, prepares and mails form CS-408.3B, "Notice Concerning Review Request" to the parties with a finding that a review is not available because similar services are already being provided by another IV-D agency. Encloses Request for Hearing form. Skips to step 10.
 - b. if not apparent from the available information, proceeds to step 7.
7. Modification action pending. Determines if a review or modification action is pending in a District Court of the State of Montana or in a Court or administrative agency of another State:
 - a. if apparent from the available information, prepares and mails form CS-408.3B, "Notice Concerning Review Request" to the parties with a finding that a review is not available because a review or modification action is pending in another forum. Encloses Request for Hearing form. Skips to step 10.
 - b. if not apparent from the available information, proceeds to step 8.
8. 30 months or significant change. Determines whether 30 months have elapsed since the order was entered, last reviewed or modified:
 - a. if so, proceeds to step 9.
 - b. if not, determines whether a significant change of circumstances has occurred since the order was entered, last reviewed or modified. For purposes of this section, a

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"significant change of circumstances" includes, but is not limited to:

- an increase or decrease in a parent's net available resources of 25% or more;
- one or more of the children have attained the age of majority, become otherwise emancipated or died;
- one or more of the children have moved from one parent's home to the home of the other parent. The move must be made with the intent that it be permanent and must be made with the written consent of the custodial parent, or by order of a Court of competent jurisdiction;
- a child has developed special needs which were not considered in the original order;
- the Absent Parent may have become disabled and Social Security benefits which were not considered in the original order are being paid to the children;
- there have been new guidelines adopted since the order was entered, last reviewed or modified; or the order was set without reference to the guidelines.

If a significant change of circumstances has not occurred, prepares and mails form CS-408.3B, "Notice Concerning Review Request" to the parties with a finding that a review is not available because less than 30 months have elapsed since the order was entered, last reviewed or modified and no significant change of circumstances has occurred. Encloses Request for Hearing form. Skips to step 10.

If a significant change of circumstances has occurred, proceeds to step 9.

9. Personal and subject matter jurisdiction. Determines whether the CSED has or can obtain personal and subject matter jurisdiction to

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conduct a review under Constitutional, Statutory and case Law, according to the policies of the CSED:

- a. if so, skips to step 14.
- b. if not, and the State having jurisdiction to conduct a review and modification can be determined, skips to step 12.
- c. if not, and the State having jurisdiction to conduct a review and modification cannot be determined, prepares and mails form CS-408.3B, "Notice Concerning Review Request" to the parties with a finding that a review is not available because the CSED cannot obtain personal or subject matter jurisdiction to conduct a review. Encloses a Request for Hearing form. Proceeds to step 10.

If the records available to the Review and Modification Unit do not contain sufficient information to make a jurisdictional determination, prepares and mails form CS-408.3C, "Non-Resident/Modification Jurisdiction Affidavit" to the Custodian of the child(ren) and, if appropriate, the Absent Parent. When the completed affidavit is received, completes this step.

If, under UIFSA law and CSED policy, Montana is the proper forum for modification, but personal jurisdiction over one of the parties cannot be otherwise obtained, prepares and mails form CS-408.3D, "Waiver of Personal Jurisdiction" to the party with a request that it be signed, notarized and returned to the Review and Modification Unit. If a properly signed and notarized waiver is received, skips to step 14.

10. Hearing requested. If a Request for Hearing is received by the Office of the Administrative Law Judge within 23 calendar days, skips to step 27.

If not, makes the appropriate notations on the SEARCHS system and stops here.

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- Caseworker 11. Denial noted. If a Notice Concerning Review request is received from the Review and Modification Unit, places it in the case file record and makes the appropriate case notes and SEARCHS changes.
- Modification Specialist 12. Interstate review and modification. If the State of Montana does not have personal and subject matter jurisdiction to conduct an administrative review and modification of a support order, and the State which has jurisdiction can be identified, immediately notifies the appropriate Child Support Technician that an interstate transmittal or UIFSA petition must be prepared. Advises the Technician of the date the report or request was received, and transmits any documents to the appropriate CSED Regional Office.
- Child Support Technician 13. Interstate request initiated. Within 20 calendar days after the receipt of sufficient information to conduct a review, prepares and transmits UIFSA documents to the responding State.
- Modification Specialist 14. Non-CSED orders registered. Obtains certified copies of all support orders not issued or previously registered by the CSED and all previous non-CSED modifications. Registers them in the CSED Office of the Administrative Law Judge (OALJ) as provided in CS 500-2. *408.7*

~~The certified copy(ies) and form CS-405.15A,~~
"Request for Registration" must be forwarded to the CSED Hearings Office before proceeding to the next step. Diaries receipt of CS-405.15B, "Notice of Registration".

NOTE -- PRIORITIZATION. The order in which administrative reviews will be conducted is established by the Review and Modification Unit, in accordance with CSED and office policy. If the Review and Modification Unit Determines that a review is appropriate, the review will be

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completed no later than 180 calendar days after the Review Request was received.

15. **Review Notice/Order to Produce issued.** Prepares an administrative review notice package for each necessary party (except the CSED) consisting of:

- form CS-408.3E, "Review Notice and Order to Produce"
- form CS-404.6A, "Financial Affidavit."
- form CS-405.8A, "Affidavit of necessity"
- form CS-401.3G "Praecipe" or form CS-405.1 "Acknowledgement of Service"

Makes copies as necessary. Initiates service of the notice packages on all necessary parties. If the CSED is a necessary party, sends only the Review Notice and the Request for Hearing to the caseworker, along with an Acknowledgment of Service. Retains one copy of the Review Notice in the case file.

Diaries the case for Sheriff's return or Acknowledgement of Service". Each parent has 20 calendar days from the date of service to return the Financial Affidavit and supporting documents.

NOTE -- ALL AP CASES CONSIDERED: Whenever practical, cases involving the same Absent Parent should be "linked" during review, even if a Request for Review is received in only one. This assures that all cases will be considered together, and equitable support orders can be entered taking all applicable circumstances into consideration. However, if difficulties arise in simultaneously processing cases, complete the first families' review before completing subsequent families' reviews. In no case may this policy delay review of an order more than 30 months old.

16. **Discovery of income and assets.** After receiving evidence that all necessary parties have been served, prepares and issues form CS-405.8C, "Subpoena Duces Tecum" and one copy to the parties' employers, as appropriate.

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If an Affidavit of Necessity requesting the discovery of documents was timely received, determines if the subpoenaed information is directly related to application of the guidelines. If so, prepares and issues form CS-405.8C, "Subpoena Duces Tecum" and one copy to the person or entity named in the Affidavit of Necessity.

Mails to appropriate Sheriff(s) along with a praecipe containing the instructions for service.

NOTE -- The Review and Modification Unit is responsible for preparing, issuing and serving administrative subpoenas on the parents' employers and all other persons with documents or testimony required for the Review Hearing.

17. Financial information recorded. Monitors return of financial information. If necessary financial information or subpoenaed documents are not timely received, initiates administrative contempt procedures to compel production of the information.

When sufficient financial information is received, but no sooner than 20 calendar days from the date of service of the Review Notice upon the last necessary party, reviews the information and records it on SEARCHS. Prints the guideline worksheet and places it in the case file record. Transmits the case file to the Child Support Arbitrator for evaluation.

Child Support
Arbitrator

18. Case file record examined. Examines the case file record and determines the need for additional information. Conducts additional investigation and discovery as necessary.
19. Notice to appear issued. When sufficient information to conduct a review is gathered, but no sooner than 30 calendar days from the date of service of the Review Notice on the last necessary party, prepares and mails form CS-408.3F, "Notice of Review Hearing/Order" to the

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parties, including the caseworker. Diaries exchange of hearing exhibits.

If an Affidavit of Necessity requesting the testimony of a witness was timely received, determines if the subpoenaed testimony is directly related to application of the guidelines. If so, prepares and issues form CS-405.8B, "Subpoena" and one copy to the person or entity named in the Affidavit of Necessity.

Mails to appropriate Sheriff(s) along with a praecipe containing the instructions for service.

Caseworker

20. Exhibit preparation. If the CSED caseworker wishes to have exhibits considered at the Review Hearing, prepares and mails them to the review and Modification Unit. Retains copies in the case file record.

Modification
Specialist

21. Exhibits exchanged. When all hearing exhibits are received, but neither sooner than 10 calendar days nor later than 5 calendar days prior to the Review Hearing, marks, copies and mails hearing exhibits to all necessary parties.

NOTE -- CONFIDENTIALITY LIMITED: All information subpoenaed by or provided to the Review and Modification Unit in an administrative review will be exchanged with the other necessary party(ies). Information which is not required for application of the guidelines, such as addresses and telephone numbers, will not be exchanged. Parties may request that sensitive information be sealed, obliterated or otherwise protected in any exchange.

22. Review hearing conducted. Conducts a recorded telephone Review Hearing with the necessary parties and other witnesses. Using the subpoenaed information, the exhibits and the testimony received at the hearing, calculates a support amount using the SEARCHS guideline software. Encourages the parties to reach an agreement concerning the facts and the proper amount of child support. Rules on requests for

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variances from the guidelines made by the parties. If an agreement is reached, prepares and mails form CS-408.3G, "Modification Consent Order" to the parties for signature. Diaries return of signed original.

23. Consent order submitted. Upon receiving the signed Modification consent order, submits the original to the CSED Hearings Officer for approval. Retains one copy in the case file record. Diaries receipt of copies of the filed order and (if applicable) abstract. Skips to step 30.

NOTE -- FINES: Fines will be assessed to punish parties who raise frivolous defenses or who, without good reason, refuse to sign a consent order. The fine can be up to \$500.00 per person per incident.

24. Proposed modification issued. Within 20 calendar days after an administrative review hearing is conducted, and if an agreement from the necessary parties to a proper amount of support could not be obtained, prepares and mails a copy of the Notice of Proposed Modification to each of the parties. Retains the original in the case file. The notice will contain findings of fact and conclusions of law. It may include one or more of the following:

- a. a determination that the difference between the order amount and the guidelines amount is negligible. If so, there will be no change in the amount of the support order. A determination that the difference is negligible does not preclude the order from being modified to allow Social Security benefits paid to the children as a result of the Absent Parent's disability to be credited against the support obligation, or entry of an order requiring the Absent Parent to get and keep health insurance coverage for the child(ren).
- b. a proposal that the support order be modified. The proposal may include an increase or decrease in the amount of

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support, including variances; credit for Social Security benefits and supplements for the child(ren)'s special needs; and an order that the Absent Parent get and keep health insurance whenever it is available through employment or union.

- c. a determination that there is insufficient information to apply the guidelines. If so, the order will not be changed.

Unless there is a determination that the non-prevailing party is indigent or that payment of fees would create an undue hardship for the party or the party's household, the Notice of Proposed Modification will include assessment of fees against the non-prevailing party. Judgments for fines will be issued separately, by the CSED Hearing Officer.

NOTE -- FAILURE TO APPEAR AT REVIEW HEARING: If a necessary party does not appear or participate at the Review Hearing, the Child Support Arbitrator shall determine if there is sufficient credible evidence on the record to apply the Montana Child Support Guidelines. If so, the Notice of Proposed Modification can be issued. If not, the Arbitrator will use the administrative contempt procedures to compel the production of information or appearance by the uncooperative party.

25. Administrative review records filed. After mailing copies of the Notice of Proposed Modification to the parties, files the Notice and all documents related to the administrative review in the CSED Office of the Administrative Law Judge, along with the taped record of the Review Hearing. Diaries for the 33rd calendar day for receipt of Request for Hearing.
26. No hearing request timely received. If no Request for Hearing is filed in the Office of the Administrative Law Judge on or before the 33rd calendar day after mailing the Notice of Proposed Modification, prepares and submits Modification order to a CSED Hearing Officer.

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Diaries return of signed order and (if applicable) abstract. Skips to step 30.

Hearings
Assistant

27. Modification challenge hearing scheduled. If a Request for Hearing is timely received, prepares form HR-14, "Notice of Hearing" scheduling a hearing before a CSED Hearing Officer. The hearing date must be at least 60 calendar days after the date the Review Notice was served on the last necessary party. Makes copies and mails one to each necessary party. Retains original in the hearing file.

Hearing Officer

28. Modification hearing conducted. Conducts a recorded telephone hearing. The hearing is limited to questions of law, determinations whether the findings of the Child Support Arbitrator are supported by the record and determinations whether the child support guidelines were correctly applied. The parties shall not be allowed to present any additional evidence unless it could not reasonably have been presented at the Review Hearing. The Hearing Officer will accept the Arbitrator's findings, conclusions, calculations and variance determinations unless they are shown to be clearly erroneous, based on incorrect conclusions of law or are not supported by substantial credible evidence.
29. Hearing order issued. Within 20 calendar days after the modification challenge hearing is concluded and the record is closed, prepares, copies and mails a final administrative order to each of the parties. The order which may include one or more of the following provisions:
- a. an approval and adoption of the Arbitrator's findings, conclusions, calculations and variances;
 - b. a change in all or any part of the Arbitrator's findings, conclusions, calculations and variances;

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- c. a rejection of the Arbitrator's findings, conclusions, calculations and variances in whole or in part;
- d. an order remanding the matter to the Arbitrator with instructions for further review.

30. Order signed. Signs the order and transmits it to the Hearings Assistant for filing and (if applicable) abstracting.

Hearings
Assistant

31. Order filed. Files signed original order. Mails one copy to each party. If the order modifies, amends or otherwise changes the previous order, prepares Abstract of Final Administrative Order and files it with the Clerk of the Montana District Court which entered the original support order. If the original support order was issued outside Montana, or by a Tribal Court, files the abstract in the District Court of the Montana County where the Absent Parent resides or owns property. If the Absent Parent does not reside or own property in Montana, files the abstract in the Montana County where the Custodial Person or the Child resides. Diaries return of filed abstract from the Clerk of Court.

32. Abstract mailed to parties. Upon receiving copy of filed abstract, makes copies and mails one copy to each party with a copy of the administrative modification order. If the original support order was issued outside Montana or by a Tribal Court, mails one copy of the administrative modification order to the Clerk of the Court for filing in the original cause number. Retains originals in file.

33. Judicial Review available. Within 30 calendar days after receiving the Hearing Officer's final administrative order, any aggrieved Non-CSED party may file a petition for judicial review in a district court of the state of Montana under the Montana Administrative Procedure Act.

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Modification
Specialist

34. Record keeping. Upon receipt of the signed, filed administrative modification order and (if applicable) copy of the filed Abstract of Final administrative Order, places copies in case file record and makes appropriate case notes and SEARCHS changes

Caseworker

35. Files order. Upon receipt of copies the final administrative order and (if applicable) abstract, files each one in the case file.

Department of Public Health and
Human Services

section:
REVIEW AND MODIFICATION
OF SUPPORT ORDER

CHILD SUPPORT ENFORCEMENT

subject:
Registration of Support Order

SUPERSEDES: [new section]

REFERENCES: MCA § 40-5-271(1)

POLICY: To modify a foreign support order the CSED must first register the order under MCA section 40-5-271(1). Registration for purposes of modification is an internal CSED function initiated by the CSED Review and Modification Unit. The process is available only during a review and modification proceeding, and does not confer jurisdiction for enforcement purposes.

The CSED provides notice of the registration, and an opportunity to contest the registration at hearing, to all parties in the review and modification proceeding. If a hearing is held, all actions in the modification proceeding are suspended until the registration is resolved.

For purposes of this section a "foreign order" is any order not issued by the CSED. In questionable cases, a CSED staff attorney should be consulted.

PROCEDURES:

RESPONSIBILITY	ACTION
----------------	--------

Modification Caseworker	1. Upon determining registration of foreign order(s) is required for review and modification process, prepares form CS-408.7A, Notice of Registration of Support Order for Modification. Signs and dates notice; updates SOD screen to show order registered. Completes certificate of mailing for date of regular mail only. Makes necessary number of copies for distribution in this step and step 2. Sends by regular mail - one copy of notice to issuing tribunal of each foreign order listed in notice, and - original notice and certified copy of registered order(s) to CSED Office of the Administrative Law Judge (OALJ) for filing in Support Order Registry.
----------------------------	---

section: REVIEW AND MODIFICATION
OF SUPPORT ORDER

subject: Registration of
Support Order

Retains one copy of notice and registered order(s) for case file.

2. Arranges for service of notice on parties by enclosing copy with Review Notice and Order to Produce in packages prepared in section CS 408.3 or 408.5. Upon service of package on each party, enters SEARCHS case note for notice of registration served; proceeds with review and modification actions.
3. Upon being notified by OALJ that modification registration hearing has been granted, suspends all action in review and modification proceeding until registration issue is resolved; enters SEARCHS case note.

Office of the
Administrative
Law Judge
(OALJ)

4. Upon receiving request for registration hearing, determines whether request is timely. Timely request is one received within 20 calendar days following date of service on requesting party.
 - a. If so, immediately notifies modification caseworker. Schedules registration hearing, and prepares and sends Notice and Order for Hearing staying any review and modification action in progress. Proceeds to step 7.
 - b. If not, and review and modification process has been completed, processes Order Denying Hearing Request, obtains ALJ's signature, and sends copies to parties; retains original in file.
 - c. If not, and review and modification process has not been completed, informs Administrative Law Judge (ALJ) of untimely request, and proceeds according to outcome of step 5. If request granted, proceeds as in step 4a. If request denied, proceeds as in step 4b.

Administrative
Law Judge
(ALJ)

5. Upon being informed of untimely request for registration hearing where review and modification process has not been completed, identifies status of review and modification

section: REVIEW AND MODIFICATION
OF SUPPORT ORDER

subject: Registration of
Support Order

case. Requests additional pleadings or responses as needed from parties, and makes determination granting or denying hearing request.

6. If hearing is granted, conducts registration on issues; these may include whether original tribunal had subject matter or personal jurisdiction to issue order, or whether tribunal gave party reasonable notice and opportunity to be heard. Issues decision and order vacating or confirming registration; enters SEARCHS case note for modification registration hearing decision and order.

OALJ

7. Obtains ALJ's signature on hearing decision and order. Sends copies to parties and modification caseworker. If registration vacated, removes foreign support order from Support Order Registry.

Modification
Caseworker

8. Upon receiving registration hearing decision and order, sends copy to regional caseworker. If decision and order vacates registration, takes formal action to terminate review and modification proceeding under 408.3 or 408.5; updates SOD screen to remove registration. If decision and order confirms registration, proceeds with review and modification action at point action was suspended.

Regional
Caseworker

9. Upon receiving copy of decision and order from modification registration hearing, retains in file for future reference. In subsequent enforcement proceedings, consults with CSED staff attorney to consider effect of hearing decision, or effect of any denial of registration hearing or failure to request registration hearing.

STATE OF MONTANA
DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION

4- 5-
6- 7-

Case Number: 2-

Concerning:

8-

IN RE THE SUPPORT OBLIGATION OF:

Custodian as of Notice Date

9-

Absent Parent
SSN: 18-

Child(ren)

10- 11-, 11- 12-, 12- 13-, 13- 14-
, 14- 15-, , 15- 16-, 16- 17-, , 17-

ORDER MODIFYING DEFAULT SUPPORT ORDER

The Child Support Enforcement Division (CSED) and the above-named Absent Parent agree and petition the CSED Hearing Officer as follows:

1. On 48-, the CSED Hearing Officer entered a Default Decision and Order requiring the Absent Parent to pay child support.
2. After entry of the order, the Absent Parent presented evidence of income and assets. The CSED accepted this evidence.
3. The Absent Parent and the CSED apply for entry of an order prospectively modifying the Absent Parent's current/future support obligation to \$50- per month, per child for a total of \$51- per month 52- which takes into consideration the attached financial information and the attached Montana Child Support Guidelines computation. 52- which was not calculated under the Montana Child Support Guidelines. This should be an interlocutory order which will remain in effect pending an order based on the Guidelines.
4. Immediate income withholding is appropriate. The Absent Parent agrees his/her income is subject to immediate withholding under MCA Title 40, Chapter 5, Parts 3 and 4. The name(s) and address(es) of the Absent Parent's employer(s)/payor(s) is/are:

21- 21-
22- 22-
23- 23-
24- 24-
25- 25-

5. The Absent Parent agrees that the modified order includes the requirement that the

.....
FOR CSED USE ONLY

Previous Cause No.: 53- 53- 42-
Administrative Order No.: 47-

County Where Filed: 54- 54- 41-

.....
CONTINUED ON OTHER SIDE

CS-408.11
(Rev. 10/93)

Absent Parent get and keep health insurance coverage for the child(ren) whenever it is available through employment or other group plan.

Now therefore, in consideration of the above, the CSED and the Absent Parent ask the Hearing Officer to modify prospectively the support amount.

DATED this _____ day of _____, 19_____.

Absent Parent

CSED

Before me, a Notary Public for this State, personally appeared the Absent Parent, known by me to be the person named in the foregoing ORDER MODIFYING DEFAULT SUPPORT ORDER, and executed the same in my presence.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day, month and year hereinabove written.

(S E A L)

NOTARY PUBLIC

Residing at: _____

My Commission Expires: _____

DECISION AND ORDER

Upon the foregoing authorization, and for good cause appearing, IT IS HEREBY SO ORDERED.

The Absent Parent shall pay current/future child support of **\$50⁻** per month per child starting **49⁻**. The total amount due for current/future support each month is **\$51⁻**.

This order may be subject to review and modification under the provisions of MCA Title 40, Chapter 5, Part 2.

DATED this _____ day of _____, 19_____.

HEARING OFFICER

Child Support Enforcement Division

CERTIFICATE OF MAILING

This is to certify that I, one of the legal unit administrative staff, deposited in the regular U.S. Mail, postage prepaid on the _____ day of _____, 19_____, a true and correct copy of the foregoing Decision and Order to the following:

Child Support Enforcement Division

26 ~ 26 ~

4 ~ 4 ~

5 ~ 5 ~

6 ~ 6 ~

7 ~ 7 ~

36 ~ 36 ~

37 ~ 37 ~

38 ~ 38 ~

39 ~ 39 ~

40 ~ 40 ~

8 ~ 8 ~

9 ~ 9 ~

32 ~ 32 ~

33 ~ 33 ~

34 ~ 34 ~

35 ~ 35 ~

27 ~ 27 ~

28 ~ 28 ~

29 ~ 29 ~

30 ~ 30 ~

31 ~ 31 ~

HEARINGS ASSISTANT

Child Support Enforcement Division

STATE OF MONTANA
DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION

18~
21~ 22~ 23~ 24~
19~ 20~

July 27, 1994

4~
14~
15~
16~
17~

Case Number: 2~

Obligor: 5~

Child(ren): 6~7~, 7~8~, 8~9~,
9~10~, 10~11~, 11~12~, 12~13~,
13~

Dear 4~:

PLEASE TAKE NOTICE: This agency is in the process of 28~ modifying establishing a support order for your child(ren). We have gathered the necessary information from you and from the obligor to prepare a guideline determination for a child support order. A copy of the worksheet we used is included with this letter.

28~ An Order Modifying Default Support Order A Consent Order has been sent to the obligor, based on the enclosed guideline worksheet. If the obligor signs and returns the 28~ Order Modifying Default Support Order Consent Order it will be sent to the Administrative Law Judge to become an order, unless you contact the caseworker within ten calendar days from the date of this letter. If you have further information or questions that may change this order, please contact the caseworker whose signature appears below within ten calendar days. If we do not hear from you within ten days, we will assume the information we're working with is correct and an order may be entered. This order will be abstracted to District Court, and you will receive a copy.

27~ The obligor has requested a variance to the guidelines, and based on available information, this agency has included it as part of the calculations. An explanation of the variance is in the comments section of the enclosed worksheet. Please review this and contact your caseworker within ten days, if you do not agree with the variance.

Sincerely,

25~, 26~
Child Support Enforcement Division

Enclosure

**STATE OF MONTANA
DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION**

DATE: _____

TO: _____

CASE NUMBER: _____

INSTRUCTIONS TO PARTY REQUESTING MODIFICATION

Read this letter carefully before you complete the enclosed "Modification Request" and "Financial Affidavit". The Montana Child Support Enforcement Division (CSED) is required to review support orders for modification. If any of the following circumstances apply, the CSED will deny the request for modification:

- jurisdictional conflict. The CSED will deny a request for modification if a modification action is pending in a court or another administrative agency.
- no CSED case. The CSED will deny a request for modification if the Montana CSED is not providing support enforcement services.

If none of the above circumstances apply, the request for modification will be reviewed. Limitations on the modification process include:

- Modification will be limited to the issues of child support and health insurance. Custody, visitation and other issues cannot be addressed by the CSED.
- Modification will not reduce past due support amounts.

To request a modification, you must answer all of the questions completely and submit the enclosed "Modification Request" and "Financial Affidavit". When the CSED receives the completed documents, a child support worker will review the information you provide, along with information routinely available to the CSED. The caseworker will determine if the child support order is eligible for modification. The CSED will notify you of the results of the review by issuing a "Notice Concerning Modification Request" which will be mailed to or personally served upon both the absent parent and the custodian. **Please be aware that any information furnished in your modification request materials, including your social security number, may be used to enforce your child support obligation.**

If the child support order is eventually modified by the CSED, the order may be subject to certain requirements of federal and Montana law. These requirements include, but are not limited to:

- Future review and modification (subject to the laws and rules in effect at that time).
- Immediate income withholding.
- Unemployment insurance benefit interception.
- Workers Compensation benefit interception.
- Social Security benefits interception.
- Federal and state income tax refund intercept.
- Registration to create a lien on property.
- Seizure of real and personal property.
- Contempt proceedings.
- Garnishment or mandatory military allotment.
- Full IRS collection.
- Federal Court proceedings.
- Requirement to post bond or security.
- Reports of debt to credit bureaus.
- URESA and Interstate enforcement.

ALL MODIFIED ORDERS WILL REQUIRE THE ABSENT PARENT TO GET AND KEEP HEALTH INSURANCE WHENEVER IT IS AVAILABLE THROUGH EMPLOYMENT OR UNION.

THE MONTANA CSED DOES NOT REPRESENT THE ABSENT PARENT OR CUSTODIAN IN ANY MODIFICATION ACTION.

You may contact the CSED office at the address listed above if you have questions.

DRAFT

**STATE OF MONTANA
DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION**

Case Number: _____

) Custodian as of Notice Date: _____

IN RE THE SUPPORT OBLIGATION OF: _____

)

)

)

)

Absent Parent

Child(ren)

REQUEST FOR REVIEW

I, the undersigned (circle one) ABSENT PARENT / CUSTODIAN, being duly sworn on my oath, request a review of my support order for the reason(s) checked below.

- ☐ My support order is not consistent with the Montana Uniform Child Support Guidelines because (check all that apply):
- ☐ my income or household composition has changed.
 - ☐ the other parent's income or household composition has changed.
 - ☐ there has been a change in custody/extended visitation (you must attach a copy of the custody/visitation order pr an agreement signed by the other party).
 - ☐ one or more of the child(ren) has emancipated, reached the age of majority or died.
 - ☐ a child was born after entry of the previous order.
 - ☐ the absent parent has become disabled or rehabilitated since the previous order was entered. Social Security benefits to the children have begun or ended as a result of the disability.
 - ☐ one or more of the children have developed special needs since the order was entered, or special needs considered in the order no longer exist.
 - ☐ the order was set without reference to the guidelines.
- ☐ My support order did not require the absent parent to get and keep health insurance for the child(ren).
- ☐ Other. (Specify below.)

EXPLAIN ALL RESPONSES YOU CHECKED : _____

(If the space above is not enough, attach additional pages.)

DRAFT

CONTINUED ON FOLLOWING PAGES

CS-408.3A
(10/93)

DESCRIPTION OF ORIGINAL SUPPORT ORDER: (You must either attach a copy of the original order and all subsequent orders or answer the following questions completely.)

DRAFT

- When was the original order entered? _____
- What is the name and address of the court or administrative agency that entered the support order? _____
- What is the cause or docket number? _____
- Has the original order been changed or modified? _____ If so, explain _____
- What is the name and address of the court or administrative agency that modified the support order? _____

To help the CSED make its determination on my request for modification, I have checked all the following which apply:

- ☐ The other parent or I am receiving support enforcement services from a child support enforcement agency of a State other than Montana (give the name and address of the agency below).
- ☐ There is a court or administrative action for modification pending elsewhere. (Explain below and attach copy of petition, if any.)
- ☐ I am requesting a deviation from the Uniform Child Support Guidelines (check all that apply):
 - ☐ Under an order or agreement, the custodian and child(ren) have the exclusive right to occupy the family home free of cost.
 - ☐ An agreement about distribution of property has been reached between me and the other parent of the child(ren) named in my support order.
 - ☐ The tax consequences of an order or agreement require special consideration.
 - ☐ The other parent has income derived from other household members.
 - ☐ The child(ren) named in my support order have special educational expenses.
 - ☐ Other reasons. (specify) _____

EXPLAIN ALL RESPONSES YOU CHECKED: _____

I understand that the CSED will assess fees if an administrative review is granted as a result of this request.

DRAFT

I understand that the CSED may assess fines against any parent who fails to timely complete and return a financial information and supporting documents to the Review and Modification Unit, or if the information provided is later found to be incomplete, inaccurate or misleading. I also understand that fines can be assessed if a parent brings a frivolous request for review, raises a frivolous defense, or without reason, refuses to sign a consent order. I understand that a fine can be for an amount up to \$ 500.00 per incident, and can be collected in the same manner as child support.

DRAFT

I certify, subject to fines and penalties, that the statements and information in this Request for Review are true to the best of my knowledge, and are not brought for the purpose of delay or harassment.

DATED _____
(Month, Day, Year) (Name and Address)

NOTICE CONCERNING ADMINISTRATIVE REVIEWS

CONFIDENTIALITY LIMITED: All information provided to the Review and Modification Unit becomes part of the public record and the CSED cannot guarantee confidentiality of the information. All information gathered from each party will be exchanged with the other parties to the review action. Non-guidelines information such as addresses and telephone numbers will not be exchanged. Parties may request that sensitive information be sealed, obliterated, or other wise protected in any exchange.

DISCOVERY OF INCOME AND ASSETS: The parties may apply to the Review and Modification Unit for subpoenas to obtain information and witnesses. Discovery is limited to issues directly related to application of the Montana Uniform Child Support Guidelines. Requests for subpoenas must be submitted to the CSED Hearing Officer for approval.

CSED ATTORNEYS do not represent absent parents or custodial parents. However, you have the right to hire an attorney to represent you in the administrative review and modification proceedings. You also have the right to proceed without hiring an attorney.

LEGAL BASIS OF ADMINISTRATIVE REVIEW: The CSED conducts administrative reviews and modifications under authority of MCA §§ 40-5-272 and 40-5-273. Support orders are registered with the CSED under authority of MCA § 40-5-271. MCA § 40-5-208 requires Absent Parents to get and keep health insurance if it is available through employment or union. Immediate income withholding is required under authority of MCA Title 40, Chapter 5, Part 4. Administrative Fair Hearing "contested cases" under the Montana Administrative Procedures Act (MCA Title 2, Chapter 4). Modifications are filed with the Montana District Court Under MCA § 40-5-227.

Please mail the completed Request for Review to:

Review and Modification Unit
Suite 2B, Arcade Building
111 North Jackson
Helena, MT 59620

DRAFT

**STATE OF MONTANA
DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION**

Case Number: _____)
IN RE THE SUPPORT OBLIGATION OF: _____) Custodian as of Notice Date
_____)
Absent Parent _____) Child(ren)

NOTICE CONCERNING MODIFICATION REQUEST

The Child Support Enforcement Division (CSED) reviewed the child support obligation. The review was requested by _____. The review resulted in a determination that:

- ☐ **The order is eligible** for review and possible modification. The CSED has initially determined that the order should be modified as follows:

PROPOSED MODIFICATION(S)

- ☐ The original support order was issued by a Montana District Court or a court or administrative agency of another jurisdiction. The order will be registered with the CSED.
- ☐ The child support obligation should be changed to \$ _____ per child per month for a total of \$ _____ per month beginning _____.
- ☐ The Absent Parent should get and keep health insurance for the child(ren) whenever it is available through employment or union.
- ☐ The support order should be changed so that the Absent Parent is not required to make payments through the CSED.
- ☐ Other: _____

The Custodian and the Absent Parent each have thirty (30) days from the date of receipt of this notice to respond. If you fail to respond, you may lose your right to an administrative fair hearing and an order will be entered as described in the proposed modification. See the section entitled HOW TO REQUEST A HEARING for instructions.

- ☐ **The order is not eligible** for further review and modification, for the reason(s) checked below:
- ☐ **MODIFICATION REQUEST WAS INCOMPLETE.** The following items were unclear or omitted.

☐ **MINOR CHANGE.** The requested modification to the support order did not result in a change equal to or greater than \$25.00 per month or 25% of the existing support amount.

☐ **OTHER.** The request for modification cannot be granted for the following reason:

Date: _____

☐ AFDC ☐ NAFDC

INVESTIGATOR

Telephone: (406) _____

HOW THE CSED REVIEWED THE MODIFICATION REQUEST

The CSED reviewed the Modification Request using information provided by the requesting party and information readily available to the CSED. The caseworker calculated a new support amount using the Montana Uniform Child Support Guidelines. You may object to the initial determination as explained below.

HOW TO REQUEST A HEARING

Both the Custodian and the Absent Parent have a right to object to this Notice. They may have their objection(s) heard at an Administrative Fair Hearing. Clearly state your objections (if any) on the enclosed Request for Hearing form or its equivalent. (Note: if you did not request the modification review, you must complete the Financial Affidavit. Attach it and the required documents to the Request for Hearing.) Send or deliver it to the CSED Hearings Office. The CSED must receive it within thirty (30) days after the date you received this Notice.

If the Custodian, the Absent Parent or the CSED requests a hearing, the CSED will inform you in writing of the hearing date and time. The CSED Hearing Officer will conduct the hearing by telephone unless he or she orders an in-person hearing. The Hearings Office will mail the notice of hearing and all other documents to the address you provide. You must inform the CSED immediately if you change your address.

If the Hearing Officer is unable to reach you at the time of hearing, he or she will enter an order as follows:

- if the Hearing Officer cannot reach the person who requested the modification review, the modification request is considered withdrawn.
- if the Hearing Officer cannot reach the person who did not request the modification, that party's absence will be considered an admission that the party does not oppose the modification.
- if the CSED requested the modification, and the Hearing Officer cannot reach either the Custodian or the Absent Parent, their absence will be considered an admission that they do not oppose the modification.

If the State of Montana is providing public assistance for the child(ren), the CSED will appear at the hearing.

LIMITATIONS ON MODIFICATION PROCESS

Modification is limited by law to issues of child support and health insurance. The CSED cannot address custody, visitation or other issues. Modifications will not reduce past due support amounts owed.

CONTINUED ON FOLLOWING PAGE

EFFECT OF MODIFICATION

If the child support order is eventually modified by the CSED, the order may be subject to certain requirements of federal and Montana law. These requirements include, but are not limited to:

- Future review and modification (subject to the laws and rules in effect at that time).
- Immediate income withholding.
- Unemployment Insurance benefit interception.
- Workers Compensation benefit interception.
- Social Security benefits interception.
- Federal and state income tax refund intercept.
- Registration to create a lien on property.
- Seizure of real and personal property.
- Contempt proceedings.
- Garnishment or mandatory military allotment.
- Full IRS collection.
- Federal Court proceedings.
- Requirement to post bond or security.
- Reports of debt to credit bureaus.
- URESA and Interstate enforcement.

ALL MODIFIED ORDERS WILL REQUIRE THE ABSENT PARENT TO GET AND KEEP HEALTH INSURANCE WHENEVER IT IS AVAILABLE THROUGH EMPLOYMENT OR UNION.

THE MONTANA CSED DOES NOT REPRESENT THE ABSENT PARENT OR CUSTODIAN IN ANY MODIFICATION ACTION.

The CSED will file any modified order with a Montana District Court. The law will treat it like a District Court order.

LEGAL BASIS OF THIS NOTICE

The CSED conducts modifications under authority of MCA § 40-5-272 and 40-5-273. Support orders are registered with the CSED under authority of MCA § 40-5-271. MCA § 40-5-208 requires Absent Parents to get and keep health insurance if it is available through employment or union. Immediate income withholding is required under authority of MCA Title 40, Chapter 5, Part 4. Administrative Fair Hearings are "contested cases" under the Montana Administrative Procedures Act (MCA Title 2, Chapter 4). Modifications are filed with the Montana District Court under MCA § 40-5-227.

CERTIFICATION

I certify that this is a correct copy of the Notice Concerning Modification Request for _____, Absent Parent, and _____, Custodian.

Montana Social and Rehabilitation Services
Child Support Enforcement Division

On this _____ day of _____, 19____, before me, a Notary Public for the State of Montana, personally appeared the employee of the Child Support Enforcement Division, Montana Department of Social and Rehabilitation Services, known by me to be the person named in the above certification, and being first duly sworn, acknowledged that he/she certifies that this is a correct copy of the Notice Concerning Modification Request, and executed the certification in my presence.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day, month and year hereinabove written.

(SEAL)

Notary Public for the State of Montana
Residing at: _____, Montana
My Commission Expires: _____

**STATE OF MONTANA
DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION**

Case Number: _____)
IN RE THE SUPPORT OBLIGATION OF: _____)
_____)
Absent Parent _____) Child(ren)

NOTICE CONCERNING MODIFICATION REQUEST

The Child Support Enforcement Division (CSED) reviewed the child support obligation. The review was requested by _____. The review resulted in a determination that:

- ☐ **The order is eligible** for review and possible modification. The CSED has initially determined that the order should be modified as follows:

PROPOSED MODIFICATION(S)

- ☐ The original support order was issued by a Montana District Court or a court or administrative agency of another jurisdiction. The order will be registered with the CSED.
- ☐ The child support obligation should be changed to \$_____ per child per month for a total of \$_____ per month beginning _____.
- ☐ The Absent Parent should get and keep health insurance for the child(ren) whenever it is available through employment or union.
- ☐ The support order should be changed so that the Absent Parent is not required to make payments through the CSED.
- ☐ Other: _____

The Custodian and the Absent Parent each have thirty (30) days from the date of receipt of this notice to respond. If you fail to respond, you may lose your right to an administrative fair hearing and an order will be entered as described in the proposed modification. See the section entitled HOW TO REQUEST A HEARING for instructions.

- ☐ **The order is not eligible** for further review and modification, for the reason(s) checked below:
- ☐ **MODIFICATION REQUEST WAS INCOMPLETE.** The following items were unclear or omitted.

**STATE OF MONTANA
DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION**

Case Number: _____)
IN RE THE SUPPORT OBLIGATION OF: _____)
_____)
Absent Parent _____) Child(ren) _____

NOTICE CONCERNING MODIFICATION REQUEST

The Child Support Enforcement Division (CSED) reviewed the child support obligation. The review was requested by _____. The review resulted in a determination that:

- ☐ **The order is eligible** for review and possible modification. The CSED has initially determined that the order should be modified as follows:

PROPOSED MODIFICATION(S)

- ☐ The original support order was issued by a Montana District Court or a court or administrative agency of another jurisdiction. The order will be registered with the CSED.
- ☐ The child support obligation should be changed to \$_____ per child per month for a total of \$_____ per month beginning _____.
- ☐ The Absent Parent should get and keep health insurance for the child(ren) whenever it is available through employment or union.
- ☐ The support order should be changed so that the Absent Parent is not required to make payments through the CSED.
- ☐ Other: _____

The Custodian and the Absent Parent each have thirty (30) days from the date of receipt of this notice to respond. If you fail to respond, you may lose your right to an administrative fair hearing and an order will be entered as described in the proposed modification. See the section entitled HOW TO REQUEST A HEARING for instructions.

- ☐ **The order is not eligible** for further review and modification, for the reason(s) checked below:
- ☐ **MODIFICATION REQUEST WAS INCOMPLETE.** The following items were unclear or omitted.
- _____

- ☐ **MINOR CHANGE.** The requested modification to the support order did not result in a change equal to or greater than \$25.00 per month or 25% of the existing support amount.
- ☐ **OTHER.** The request for modification cannot be granted for the following reason:

Date: _____

☐ AFDC ☐ NAFDC

INVESTIGATOR

Telephone: (406) _____

HOW THE CSED REVIEWED THE MODIFICATION REQUEST

The CSED reviewed the Modification Request using information provided by the requesting party and information readily available to the CSED. The caseworker calculated a new support amount using the Montana Uniform Child Support Guidelines. You may object to the initial determination as explained below.

HOW TO REQUEST A HEARING

Both the Custodian and the Absent Parent have a right to object to this Notice. They may have their objection(s) heard at an Administrative Fair Hearing. Clearly state your objections (if any) on the enclosed Request for Hearing form or its equivalent. (Note: if you did not request the modification review, you must complete the Financial Affidavit. Attach it and the required documents to the Request for Hearing.) Send or deliver it to the CSED Hearings Office. The CSED must receive it within thirty (30) days after the date you received this Notice.

If the Custodian, the Absent Parent or the CSED requests a hearing, the CSED will inform you in writing of the hearing date and time. The CSED Hearing Officer will conduct the hearing by telephone unless he or she orders an in-person hearing. The Hearings Office will mail the notice of hearing and all other documents to the address you provide. You must inform the CSED immediately if you change your address.

If the Hearing Officer is unable to reach you at the time of hearing, he or she will enter an order as follows:

- if the Hearing Officer cannot reach the person who requested the modification review, the modification request is considered withdrawn.
- if the Hearing Officer cannot reach the person who did not request the modification, that party's absence will be considered an admission that the party does not oppose the modification.
- if the CSED requested the modification, and the Hearing Officer cannot reach either the Custodian or the Absent Parent, their absence will be considered an admission that they do not oppose the modification.

If the State of Montana is providing public assistance for the child(ren), the CSED will appear at the hearing.

LIMITATIONS ON MODIFICATION PROCESS

Modification is limited by law to issues of child support and health insurance. The CSED cannot address custody, visitation or other issues. Modifications will not reduce past due support amounts owed.

CONTINUED ON FOLLOWING PAGE

EFFECT OF MODIFICATION

If the child support order is eventually modified by the CSED, the order may be subject to certain requirements of federal and Montana law. These requirements include, but are not limited to:

- Future review and modification (subject to the laws and rules in effect at that time).
- Immediate income withholding.
- Unemployment insurance benefit interception.
- Workers Compensation benefit interception.
- Social Security benefits interception.
- Federal and state income tax refund intercept.
- Registration to create a lien on property.
- Seizure of real and personal property.
- Contempt proceedings.
- Garnishment or mandatory military allotment.
- Full IRS collection.
- Federal Court proceedings.
- Requirement to post bond or security.
- Reports of debt to credit bureaus.
- URESA and Interstate enforcement.

ALL MODIFIED ORDERS WILL REQUIRE THE ABSENT PARENT TO GET AND KEEP HEALTH INSURANCE WHENEVER IT IS AVAILABLE THROUGH EMPLOYMENT OR UNION.

THE MONTANA CSED DOES NOT REPRESENT THE ABSENT PARENT OR CUSTODIAN IN ANY MODIFICATION ACTION.

The CSED will file any modified order with a Montana District Court. The law will treat it like a District Court order.

LEGAL BASIS OF THIS NOTICE

The CSED conducts modifications under authority of MCA § 40-5-272 and 40-5-273. Support orders are registered with the CSED under authority of MCA § 40-5-271. MCA § 40-5-208 requires Absent Parents to get and keep health insurance if it is available through employment or union. Immediate income withholding is required under authority of MCA Title 40, Chapter 5, Part 4. Administrative Fair Hearings are "contested cases" under the Montana Administrative Procedures Act (MCA Title 2, Chapter 4). Modifications are filed with the Montana District Court under MCA § 40-5-227.

CERTIFICATION

I certify that this is a correct copy of the Notice Concerning Modification Request for _____, Absent Parent, and _____, Custodian.

Montana Social and Rehabilitation Services
Child Support Enforcement Division

On this _____ day of _____, 19____, before me, a Notary Public for the State of Montana, personally appeared the employee of the Child Support Enforcement Division, Montana Department of Social and Rehabilitation Services, known by me to be the person named in the above certification, and being first duly sworn, acknowledged that he/she certifies that this is a correct copy of the Notice Concerning Modification Request, and executed the certification in my presence.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day, month and year hereinabove written.

(SEAL)

Notary Public for the State of Montana
Residing at: _____, Montana
My Commission Expires: _____

~~DRAFT~~

BEFORE THE STATE OF MONTANA
DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION

Custodian: _____

Case Number: _____

Absent Parent: _____

Child(ren): _____

NON-RESIDENT/MODIFICATION JURISDICTION AFFIDAVIT

INSTRUCTIONS: This is a legal document, and you must complete it, and sign it in the presence of a Notary Public under oath. Provide complete information. If a question or statement does not apply to you, DO NOT LEAVE A BLANK. Instead, mark it as "Not Applicable" or "N/A."

QUESTIONS ABOUT NON-RESIDENT PARTY

1. Name the state and county where you live. _____
How long have you lived in that state? _____

Name the state and county where the other party lives. _____
How long has the other party lived in that state? _____

2. Name the state and county where the child(ren) lives. _____
How long has the child(ren) lived in that state? _____
If the child(ren) has lived in that state for less than 6 months, in what state and county did the child(ren) live before? _____

3. Does the child(ren) live in Montana with the permission of the non-resident party or at the non-resident party's request? ____ If so, please explain. _____

4. Does the non-resident party spend time in Montana? ____ When, where, how long, and for what purpose does the non-resident party spend time in Montana? _____

5. Has the non-resident party ever lived in Montana with the child(ren)? ____ When and for how long? _____

6. Do you think the non-resident party would sign a document giving the State of Montana jurisdiction to review and modify the child support order? _____

CONTINUED ON OTHER SIDECS-408.3C
(10/93)~~DRAFT~~

7. Has the non-resident party lived in this state while providing prenatal expenses or support for the child(ren)? _____ If so, please explain. _____

8. Describe any connection the non-resident party has with Montana. For example: the non-resident party may earn income from Montana or own property in Montana. _____

9. Describe the Montana resident's connections to the state in which the other party lives. _____

10. Describe the child(ren)'s connections to Montana. _____

11. Describe the children's connections to the state in which the other party lives. _____

12. Describe why you believe Montana should exercise jurisdiction over the non-resident party to modify the support order. _____

QUESTIONS CONCERNING OUT-OF-STATE ORDER

13. In what state was the child support order issued? _____
When was it issued? _____
14. Which party or parties lived in the state which issued the child support order at the time it was issued? _____
Who did the child(ren) live with when the child support order was issued? _____

15. Does either party still live in the state which issued the support order? _____
Which party? _____
Do the children still live in that state? _____

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16. How long has the party who lives in Montana resided here? _____

17. Additional comments or information: _____

STATE OF _____)
) ss.
County of _____)

I declare, subject to penalties for perjury and false swearing, that I have read the foregoing affidavit and that the information contained in it and in any attachments to it is true and correct to the best of my knowledge, information and belief.

DATED this _____ day of _____, 19 ____.

Affiant

Print your full name

SUBSCRIBED AND SWORN TO before me, a Notary Public for this State on the
date and place written above.

(S E A L)

NOTARY PUBLIC

Residing at: _____

My Commission Expires: _____

~~DRAFT~~

See system version

DRAFT

BEFORE THE STATE OF MONTANA
DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION

Custodian: _____

Case Number: _____

Absent Parent: _____

Child(ren): _____

WAIVER OF PERSONAL JURISDICTION

I, _____, submit and consent to the personal
(print full name)
jurisdiction of the Montana Child Support Enforcement Division (CSED) for the
administrative review and modification of support order process of MCA 40-5-271 through
40-5-273. I have read MCA 40-5-271 through 40-5-273, describing the review and
modification process.

I understand that the review and modification process may result in an increase or
decrease of the support order enforced by the CSED and may also result in an order
requiring the child support obligor to obtain and maintain health insurance when this is
available through the obligor's employment or other group insurance.

My consent to personal jurisdiction for review and modification of child support does
not confer jurisdiction for any other purpose, such as custody or visitation disputes.

DATED this _____ day of _____, 199_____.

STATE OF _____)
_____) ss.
County of _____)

Signature

Before me, a Notary Public for this State, personally appeared the person in the foregoing
WAIVER OF PERSONAL JURISDICTION, and executed the same in my presence.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the
day, month and year hereinabove written.

(S E A L)

NOTARY PUBLIC

Residing at: _____

My Commission Expires: _____

DRAFT

CS-408.3D
(10/93)

See system version

~~DRAFT~~

STATE OF MONTANA
DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION

Case Number _____)
)
IN RE THE SUPPORT OBLIGATION OF _____)
) Custodian
)
)

Absent Parent) Child(ren)

REVIEW NOTICE AND ORDER TO PRODUCE

The Child Support Enforcement Division (CSED) has received a Request for Review of the support order(s) in this case. The review was requested by _____.

An administrative action to review the support order(s) will commence 30 days after service of this notice on all parties.

TO: _____, (Role in this action)

PLEASE TAKE NOTICE: The CSED hereby orders you to complete the Financial Affidavit attached to this notice and produce copies of your State and Federal income tax returns for the last two (2) tax years, and (if applicable) a copy of your most recent pay stub.

CONSIDERATION OF ALL INCOME: All Income and resources of your household must be disclosed and considered by the Review and Modification Unit when the Review and Modification Unit reviews the child support obligation. Only the income of the parents of the child(ren) whose support is at issue will be used for purposes of calculating the support obligation.

VERIFICATION OF INCOME: Tax returns for the preceding two years and (if applicable) your latest pay stub must be provided to verify income and deductions. Other sufficient verification is required for income and deductions which do not appear on tax returns or pay stubs.

OTHER INCOME SOURCES: Contract related benefits; commissions; income from second jobs; dividends; interest income; trust income; severance pay; annuities; capital gains; pension retirement benefits; workers's compensation; unemployment benefits; spousal maintenance actually received; bonuses; social security benefits and disability insurance benefits must be disclosed.

CONFIDENTIALITY LIMITED: All information on this form becomes part of the public record and the CSED cannot guarantee Confidentiality of the information. All information gathered from each party will be exchanged with the other parties to the review action. Non-guidelines information such as addresses and telephone numbers will not be exchanged. Parties may request that sensitive information be sealed, obliterated, or other wise protected in any exchange.

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DRAFT

FEES: The CSED will assess fees when the review and modification is completed.

SANCTIONS: If you fail to timely complete and return a Financial Affidavit and supporting documents to the Review and Modification Unit, or if the information provided is later found to be incomplete, inaccurate or misleading, the Adjustment and Review Unit will apply for sanctions against you. If a party is found liable for sanctions, the CSED Hearing Officer can levy a fine up to \$ 500.00 per incident, which can be collected in the same manner as child support.

DISCOVERY OF INCOME AND ASSETS: You may apply to the Review and Modification Unit for subpoenas to obtain information and witnesses. Discovery is limited to issues directly related to application of the Montana Uniform Child Support Guidelines. If you wish to request a subpoena, please fill out the Affidavit of Necessity attached to this notice. Subpoenas may not be requested more than 10 days of the date of receipt of this notice.

CSED ATTORNEYS do not represent absent parents or custodial parents. However, you have the right to hire an attorney to represent you in the administrative review and modification proceedings. You also have the right to proceed without hiring an attorney.

You must return the Financial Affidavit and other documents to the Review and Modification Unit within 20 days after you receive this notice.

DATED This _____ day of _____, 19_____.

Child Support Enforcement Division

LEGAL BASIS OF THIS NOTICE

The CSED conducts administrative reviews and modifications under authority of MCA 40-5-272 and 40-5-273. Support orders are registered with the CSED under authority of MCA 40-5-271. MCA 40-5-208 requires Absent Parents to get and keep health insurance if it is available through employment or union. Immediate income withholding is required under authority of MCA Title 40, Chapter 5, Part 4. Administrative Fair Hearing "contested cases" under the Montana Administrative Procedures Act (MCA Title 2, Chapter 4). Modifications are filed with the Montana District Court Under MCA 40-5-227.

Please mail the completed Financial Affidavit and supporting documents, and Affidavit of Necessity if necessary to:

Review and Modification Unit
Suite 2B, Arcade Building
111 North Jackson
Helena, MT 59620

See system record

DRAFT

**BEFORE THE STATE OF MONTANA
DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION**

Case Number _____)
IN RE THE SUPPORT OBLIGATION OF _____)
_____) **Custodian**
_____) **Absent Parent**
_____) **Child(ren)**

NOTICE OF REVIEW HEARING / ORDER

The Montana Child Support Enforcement Division (CSED) has determined that a review the child support order in the above case is appropriate.

TO: _____, (Role in this action)

PLEASE TAKE NOTICE: The Child Support Enforcement Division orders you to appear at an administrative review hearing scheduled for the _____ day of _____, 19____
at _____ Mountain Time.

The Child Support Arbitrator will call you for the administrative review hearing at the following number:
_____.

EXHIBITS: You must submit all documents you wish the Child Support Arbitrator to consider to the Child Support Enforcement Division's Review and Modification Unit on or before ____ day of _____
19 ____.

READ THE INSTRUCTIONS ON THE BACK WHICH EXPLAIN A ADMINISTRATIVE REVIEW HEARING.

DATED This _____ day of _____ 19____.

CHILD SUPPORT ARBITRATOR
Child Support Enforcement Division

CERTIFICATE OF SERVICE

This is to certify that I, a member of the CSED Review and Modification Unit staff, mailed copies of this Notice of Review / Order by regular U. S. Mail, postage prepaid the _____ day of _____, 19____, to the parties of record, and their attorneys if any.

Child Support Enforcement Division

CS-408.3F
(10/93)

See system version
~~DRAFT~~

**STATE OF MONTANA
DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION**

Case Number: _____)
IN RE THE SUPPORT OBLIGATION OF: _____)
_____)
Absent Parent _____)
Child(ren) _____

MODIFICATION CONSENT ORDER

We, the parties whose signatures appear below, authorize the Child Support Enforcement Division (CSED) to enter an order modifying our support order as described below (checked items only):

- ☐ 1. The current and future support amount is set at \$_____ per child per month for a total monthly amount of \$_____ beginning _____. The Absent Parent will pay the current support amount(s) for so long as the law requires.

The Montana Child Support Determination Worksheet is attached and is incorporated herein by reference.

- ☐ (if checked) The child support obligation ordered above includes a variance based on _____. The support obligation was ☐ reduced ☐ increased by \$_____ per month. In the event the condition on which the variance was based no longer applies, the support amount shall immediately revert to the amount which would have been ordered under the guidelines without any variance.

2. _____ will pay the CSED a fee of \$_____ for services provided in this administrative review and modification. _____ will pay the CSED a fee of \$_____ for services provided in this administrative review and modification. Fees may be collected by the CSED in the same manner as child support.
3. The Absent Parent will get and keep health insurance coverage for the child(ren) whenever it is available through employment or union. The parties understand that if the Absent Parent does not have insurance or fails to inform the CSED about the insurance, the CSED can fine the Absent Parent up to \$200 per child each month.
4. Immediate income withholding is appropriate. The Absent Parent's income is subject to immediate income withholding under MCA Title 40, Chapter 5, Parts 3 and 4. The name(s) and address(es) of the Absent Parent's employer(s)/payor(s) are:
5. The order is subject to review and modification under MCA § 40-5-273.

We make this authorization with full knowledge of our rights and duties under Montana law, including those listed below. In return for the mutual promises contained in this agreement, we give up these rights:

The right to receive notice from the CSED of the amount of the current/future support amount. We give up the right to receive this notice prior to entry of this order.

The right to an administrative fair hearing. We understand that at a hearing, we would have the right to:

- (a) testify, present evidence, and have witnesses testify on our behalf.
- (b) object to exhibits and evidence of other parties and to cross-examine other parties' witnesses.
- (c) have the requested modification proved by a preponderance of the evidence.

The right to have a District Court review the decision of the CSED hearing officer.

The right of each party to hire an attorney. If we have not consulted an attorney, we each give up our right to do so.

We understand that the law requires the Absent Parent's employer(s)/payor(s) to withhold the amount(s) described above from wages, earnings or other income, unless exempted according to Montana law.

We understand that this agreement does not prevent the CSED from using any legal means available to enforce any support debt owed or which may become owed to the State of Montana.

We make this authorization because it is in our best interests to do so. We are not intoxicated or suffering from any mental or emotional condition which would keep us from giving our authorization.

We understand that we may not later withdraw this authorization.

Date: _____

Absent Parent's Signature

STATE OF _____)
) : ss.
County of _____)

Before me, a Notary Public for this State, personally appeared the **Absent Parent**, known by me to be the person named in the foregoing MODIFICATION CONSENT ORDER, and executed the same in my presence.

IN WITNESS THEREOF, I have hereunto set my hand and affixed my official seal, the day, month and year hereinabove written.

(SEAL)

NOTARY PUBLIC

Residing at: _____

My Commission Expires: _____

Date: _____

Custodian's Signature

STATE OF _____)
) : ss.
County of _____)

Before me, a Notary Public for this State, personally appeared the **Custodian**, known by me to be the person named in the foregoing MODIFICATION CONSENT ORDER, and executed the same in my presence.

IN WITNESS THEREOF, I have hereunto set my hand and affixed my official seal, the day, month and year hereinabove written.

(SEAL)

NOTARY PUBLIC

Residing at: _____

My Commission Expires: _____

LEGAL BASIS OF THIS NOTICE

DRAFT

The CSED conducts administrative reviews and modifications under authority of MCA §§ 40-5-272 and 40-5-273. Support orders are registered with the CSED under authority of MCA § 40-5-271. MCA § 40-5-208 requires absent parents to get and keep health insurance if it is available through employment or union. Immediate income withholding is required under authority of MCA Title 40, Chapter 5, Part 4. Administrative Fair Hearings are "contested cases" under the Montana Administrative Procedures Act (MCA Title 2, Chapter 4).

CERTIFICATION

I certify that this is a correct copy of the Child Support Notice Concerning Modification Request for _____, absent parent, and _____, custodial parent.

Child Support Enforcement Division
Montana Social and Rehabilitation Services

On this _____ day of _____, 19____, before me, a Notary Public for the State of Montana, personally appeared the employee of the Child Support Enforcement Division, Montana Department of Social and Rehabilitation Services, known by me to be the person named in the above certification, and being first duly sworn, acknowledged that he/she certifies that this is a correct copy for the Child Support Notice Concerning Modification Request, and executed the certification in my presence.

IN WITNESS WHEREOF, I have herunto set my hand and affixed my official seal the day, month and year hereinabove written.

(S E A L)

Notary Public for the State of Montana
Residing At: _____, Montana
My Commission expires: _____

DRAFT

I, the CSED representative whose signature appears below, consent to modification of the parties' support order as agreed to above. This is the CSED's acknowledgment of notice and opportunity to participate under MCA § 53-2-613(d) and the Department's written consent under MCA § 40-5-202(5).

Date: _____

Child Support Enforcement Division

DECISION AND ORDER

Upon the foregoing authorization, and for good cause appearing, IT IS HEREBY SO ORDERED. This order may be subject to review and modification under the provisions of MCA Title 40, Chapter 5, Part 2.

Dated this _____ day of _____, 19_____.

HEARING OFFICER

Child Support Enforcement Division

CERTIFICATE OF MAILING

This is to certify that I, one of the legal unit administrative staff, deposited in the regular U.S. Mail, postage prepaid on _____, a true and correct copy of the foregoing Modification Consent Order to the following:

Child Support Enforcement Division

HEARINGS ASSISTANT

Child Support Enforcement Division



